

or (iv) to provide remunerative activity to such individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of paragraph (d)(1) of this section shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

[30 FR 314, Jan. 9, 1965, as amended at 38 FR 17946, July 5, 1973; 68 FR 51358, Aug. 26, 2003]

#### § 141.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to which this part applies, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, shall contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. The assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.

(2) In any case where the Federal assistance is to provide, or is in the form of personal property, or real property or structures or any interest therein, or such property is acquired as a result of and in connection with such assistance, the assurance shall obligate the recipient, or, in case of subsequent transfers, the transferees, for the period during which the property is used for a purpose for which the Federal assistance was, or is extended, or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property,

whichever is longer. Any assurance relating to property provided under or acquired as a result of or in connection with such assistance shall as appropriate require any instrument effecting or recording transfer, title or other evidence of ownership or right to possession, to include a covenant or condition assuring nondiscrimination for the period of obligation of the recipient or any transferee, which may contain a right to be reserved to the Department to revert title or right to possession. Where no transfer of property is involved, but property is improved or any interest of the recipient or transferee therein is increased as a result of Federal financial assistance, the recipient or transferee shall agree to include such covenant or condition in any subsequent transfer of such property. Failure to comply with any such conditions or requirements contained in such assurances shall render the recipient and the transferees, where appropriate, presumptively in noncompliance.

(3) The responsible Departmental official shall specify the form of the foregoing assurances, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education, including assistance for construction, for research, for a special training project, for student loans, or for any other purpose, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

## § 141.5

## 22 CFR Ch. I (4–1–10 Edition)

(c) *Elementary and secondary schools.* The requirements of paragraph (a)(1) of this section, with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, or (2) submits a plan the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible official of the Department of Health, Education and Welfare may reserve the right to redetermine, after such period as may be specified by him the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

[30 FR 314, Jan. 9, 1965, as amended at 38 FR 17946, July 5, 1973; 68 FR 51358, Aug. 26, 2003]

### § 141.5 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this regulation and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Departmental official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as a responsible Departmental official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In general, recipients should have

available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of Federally assisted programs. In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out his obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

[30 FR 314, Jan. 9, 1965, as amended at 38 FR 17947, July 5, 1973]

### § 141.6 Conduct of investigation.

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individual to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Departmental official a