Office of the Secretary of Defense § 195.6

with respect to all other components of the Department of Defense. Each may designate official(s) to fulfill this responsibility in accordance with §195.2(b).

(c) The Assistant Secretary of Defense (Manpower) or, after consultation with the Assistant Secretary of Defense (Manpower) may assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in §195.11), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Title VI and this part to similar programs and in similar situations.


§ 195.6 Assurances required.

(a) General. (1)(i) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, 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.

(ii) In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property or structures are used for a purpose for which the Federal financial assistance 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. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. In any case in which Federal financial assistance is extended without an application having been made, such extension shall be subject to the same assurances as if an application had been made. The responsible Department official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subguarantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interest therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the program under which the real property
is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. In programs receiving Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

(3) The assurance required in the case of a transfer of surplus personal property shall be inserted in a written agreement by and between the Department of Defense component concerned and the recipient.

(b) Continuing State programs. Every application by a State agency to carry out a program involving continuing Federal financial assistance to which this part applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part. In cases of continuing State programs in which applications are not made, the extension of Federal financial assistance shall be subject to the same conditions under this subsection as if applications had been made.

(c) Assurances from institutions. (1) In the case of Federal financial assistance to an institution of higher education, 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 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 unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution’s practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) Elementary and secondary schools. The requirement of paragraph (a), (b), or (c) 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, including any future modification of such order, or (2) submits a plan for 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, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the said Department officer may reserve the right to redetermine, after such period as may
be specified by him, the adequacy of
the plan to accomplish the purpose of
the Act or this part within the earliest
practicable time. 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 modi-
fication of said order.
[29 FR 19291, Dec. 31, 1964, as amended at 38
FR 17960, July 5, 1973]

§ 195.7 Compliance information.
(a) Cooperation and assistance. Each
responsible Department official shall
to the fullest extent practicable seek
the cooperation of recipients in obtain-
ing compliance with this part and shall
provide assistance and guidance to re-
cipients to help them comply volun-
tarily with this part.

(b) Compliance reports. Each recipient
shall keep such records and submit to
the responsible Department official
timely, complete and accurate compli-
ance reports at such times, and in such
form and containing such information,
as the responsible Department official
may determine to be necessary to en-
able him to ascertain whether the re-
cipient has complied or is complying
with this part. In general, recipients
should have available for the Depart-
ment racial and ethnic data showing
the extent to which members of minor-
ity groups are beneficiaries of federally
assisted programs. In the case of any
program under which a primary recipi-
ent extends Federal financial assist-
ance to any other recipient, such other
recipient shall also submit such com-
pliance reports to the primary recipi-
ent as may be necessary to enable the
primary recipient to carry out its obli-
gations imposed pursuant to this part.

(c) Access to sources of information.
Each recipient shall permit access by
the responsible Department official
during normal business hours to such
of its books, records, accounts, and
other sources of information, and its
facilities as may be pertinent to ascer-
tain compliance with this part. Where
any information required of a recipient
is in the exclusive possession of any
other institution or person and this in-
stitution or person shall fail or refuse
to furnish this information, the recipi-
ent 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 in-
f ormation regarding the provisions of
this part and its applicability to the
program under which the recipient re-
ceives Federal financial assistance, and
make such information available to
them in such manner as the responsi-
b le Department official finds nec-
 essary to apprise such persons of the
 protections against discrimination as-
 sured them by the Act and this part.
[29 FR 19291, Dec. 31, 1964, as amended at 38
FR 17960, July 5, 1973]

§ 195.8 Conduct of investigations.
(a) Periodic compliance reviews. The
responsible Department official or his
designee(s) shall from time to time re-
view the practices of recipients to de-
ternine whether they are complying
with this part.

(b) Complaints. Any person who be-
lieves himself or any specific class of
individuals to be subjected to discrimi-
nation prohibited by this part may by
himself or by a representative file with
the responsible Department official a
written complaint. A complaint must
be filed not later than 180 days from
the date of the alleged discrimination,
unless the time for filing is extended
by the responsible Department official.

(c) Investigations. The responsible De-
partment official will make a prompt
investigation whenever a compliance
review, report, complaint, or any other
information indicates a possible failure
to comply with this part. The inves-
tigation should include, where appro-
 priate, a review of the pertinent prac-
tices and policies of the recipient, the
circumstances under which the possible
noncompliance with this part occurred,
and other factors relevant to a deter-
mination of whether the recipient has
failed to comply with this part.

(d) Resolution of matters. (1) If an in-
vestigation pursuant to paragraph (c)
of this section indicates a failure to
comply with this part, the responsible
Department official will so inform the