

§ 81.131

believes the responsible Department official to have been in error. The request for such a hearing shall be addressed to the responsible Department official and shall be made within 30 days after the applicant or recipient is informed that the responsible Department official has refused to authorize payment or permit resumption of Federal financial assistance.

(b) In the event that a hearing shall be requested pursuant to paragraph (a) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

Subpart M—Definitions

§ 81.131 Definitions.

The definitions contained in § 80.13 of this subtitle apply to this part, unless the context otherwise requires, and the term *reviewing authority* as used herein includes the Secretary of Health and Human Services, with respect to action by that official under § 81.106.

Transition provisions: (a) The amendments herein shall become effective upon publication in the FEDERAL REGISTER.

(b) These rules shall apply to any proceeding or part thereof to which Part 80 of this title as amended effective October 19, 1967 (published in the FEDERAL REGISTER for October 19, 1967), and as the same may be hereafter amended, applies. In the case of any proceeding or part thereof governed by the provisions of part 80 as that part existed prior to such amendment, and rules in this part 81 shall apply as if these amendments were not in effect.

PART 83—REGULATION FOR THE ADMINISTRATION AND ENFORCEMENT OF SECTIONS 799A AND 845 OF THE PUBLIC HEALTH SERVICE ACT

Subpart A—Purposes; Definitions; Coverage

Sec.

- 83.1 Purposes.
- 83.2 Definitions.
- 83.3 Remedial and affirmative actions.
- 83.4 Coverage.

45 CFR Subtitle A (10–1–10 Edition)

83.5 Effect of title IX of the Education Amendments of 1972.

83.6–83.9 [Reserved]

Subpart B—Discrimination in Admissions Prohibited

83.10 General obligations.

83.11 Discriminatory acts prohibited.

83.12 Recruitment.

83.13 State law and licensure requirements.

83.14 Development and dissemination of nondiscrimination policy.

83.15 Designation by entity of responsible employee and adoption of grievance procedures.

83.16–83.19 [Reserved]

Subpart C—Procedures [Interim]

83.20 Interim procedures.

AUTHORITY: Sec. 215(b), Public Health Service Act (42 U.S.C. 216(b)).

SOURCE: 40 FR 28573, July 7, 1975, unless otherwise noted.

Subpart A—Purposes; Definitions; Coverage

§ 83.1 Purposes.

(a) The purposes of this part are (1) to effectuate the provisions of sections 799A and 845 of the Public Health Service Act, which forbid the extension of Federal support under title VII or VIII of that Act to any entity of the types described in those sections unless that entity submits to the Secretary of Health and Human Services an assurance satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs, and (2) to implement the policy of the Secretary that no Federal support will be extended under those titles to any other entity unless that entity submits to the Secretary an assurance satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) The objective of this part is to abolish use of sex as a criterion in the admission of individuals to all training programs operated by an entity which receives support under title VII or VIII of the Act, and thereby to foster maximum use of all available human resources in meeting the Nation's needs for qualified health personnel.

§ 83.2 Definitions.

As used in this part the term—

(a) *Act* means the Public Health Service Act.

(b) *Administrative law judge* means a person appointed by the Reviewing Authority to preside over a hearing held under this part.

(c) *Assurance commitment clause* means a clause in an invitation for a contract offer extended by the Federal Government under title VII or VIII of the Act which, when executed by an entity as part of such offer, becomes, upon acceptance of such offer by the Federal Government, a contractual obligation of such entity to comply with its assurance submitted to the Director under this part.

(d) *Department* means the Department of Health and Human Services.

(e) *Director* means the Director of the Office for Civil Rights of the Department.

(f) *Entity* means (1) a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, school of veterinary medicine, or school of public health, as defined by section 724 of the Act;

(2) A school of nursing, as defined by section 843 of the Act;

(3) A school or college of a training center for an allied health profession, as defined by section 795 of the Act, or of another institution of undergraduate education which school or college can provide a training program;

(4) An affiliated hospital, as defined by section 724 or 795 of the Act; and

(5) Any other institution, organization, consortium, or agency which is eligible to receive Federal support.

(g) *Federal support* means assistance extended after November 18, 1971, under title VII or VIII of the Act to an entity by means of a grant to, a contract with, or a loan guarantee or interest subsidy payment made on behalf of, such entity.

(h) *Federally supported entity* means an entity which receives Federal support.

(i) *Reviewing authority* means that component of the Department to which the Secretary delegates authority to review the decision of an administra-

tive law judge in a proceeding arising under this part.

(j) *Secretary* means the Secretary of Health and Human Services.

(k) *Training program* means a program of training described by section 724(4) of the Act, a program of education described by, or specified by regulations pursuant to, section 795(1) of the Act, a program of education described by section 843(c), 843(d), or 843(e) of the Act, and a program leading to any license or certification requisite to the practice of a health profession for which a degree specified in any such section is granted.

§ 83.3 Remedial and affirmative actions.

(a) *Remedial action.* If the Director finds that an entity has discriminated against persons on the basis of sex in any of its training programs, such entity shall take such remedial action as the Director deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in a training program, an entity may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex.

§ 83.4 Coverage.

(a) If an entity receives Federal support for any of its training programs, all of its training programs thereby become subject to this part.

(b) The obligation imposed by this part on a federally supported entity not to discriminate on the basis of sex in the admission of individuals to a training program includes not only the obligation not to discriminate on such basis in the selection of individuals for such program, but also the obligation not to discriminate on such basis against individuals after their selection for such program.

(c) The obligation imposed by this part on a federally supported entity not to discriminate on the basis of sex against an individual who is an applicant for, or is enrolled in, a training program is applicable to the same extent to the actions of such entity with

§ 83.5

respect to an applicant for, or a student enrolled in, an undergraduate program of education of such entity if individuals enrolled in such program must complete all or a part of such programs to be eligible for admission to an undergraduate training program of such entity.

(d) An entity shall not discriminate on the basis of sex in violation of this part for as long as such entity receives or benefits from Federal support. For purposes of the preceding sentence, an entity shall be deemed to continue to receive or benefit from Federal support for as long as it retains ownership, possession, or use of either real or personal property and which was acquired in whole or in part with Federal support. If an entity receives value for property which was acquired in whole or in part with Federal support and such value is applied toward the acquisition of other property, such entity shall be deemed to continue to receive or benefit from such support for as long as such entity retains ownership, use, or possession of such other property.

(e) An entity shall not transfer property which was acquired, constructed, altered, repaired, expanded, or renovated in whole or in part with Federal support unless the agency, organization, or individual to whom such property is to be transferred has submitted to the Director, and he or she has found satisfactory, an assurance of compliance with this part. The preceding sentence shall not apply with respect to any real or personal property for which payments have been recaptured by the United States under title VII or VIII of the Act, with respect to any other property for which the transferring entity has refunded to the Federal Government the Federal share of the fair market value of such property, or with respect to any personal property which has only scrap value to both the entity and the agency, organization or individual to which the property is to be transferred.

§ 83.5 Effect of title IX of the Education Amendments of 1972.

The obligations imposed by this part are independent of obligations imposed by or pursuant to title IX of the Education Amendments of 1972.

45 CFR Subtitle A (10-1-10 Edition)

§§ 83.6-83.9 [Reserved]

Subpart B—Discrimination in Admissions Prohibited

§ 83.10 General obligations.

(a) *Eligibility for support.* No entity will be provided Federal support unless such entity has furnished the Director assurances satisfactory to him or her that it will not discriminate on the basis of sex, in violation of this part, in the admission of individuals to each of its training programs.

(b) *Eliminating the effects of discrimination.* An assurance of compliance with this part will not be satisfactory to the Director if the entity submitting such assurance fails to take whatever remedial action in accordance with § 83.3(a) that is necessary for such entity to eliminate the effects of any discrimination on the basis of sex in the admission of individuals to its training programs that such entity practiced prior to the submission to the Director of such assurance, or practices at the time of or subsequent to such submission. The Director may require such entity, as a condition to determining that its assurance is, or remains, satisfactory, to take specific actions, or to submit to him or her specific information, bearing upon compliance with this part.

§ 83.11 Discriminatory acts prohibited.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other training program or activity operated by an entity.

(b) *Discrimination in selection.* In determining whether an individual satisfies any enrollment, eligibility, or other condition for selection for a training program, a federally supported entity shall not:

(1) On the basis of sex, given preference to one individual over another by ranking applicants on such basis, or otherwise give such preference; or

(2) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or