

§ 98.2

(2) Was administered by the Education Division of the Department of Health, Education, and Welfare on the day before the effective date of the DEOA; or

(b) Was enacted after the effective date of the DEOA, unless the law enacting the new Federal program has the effect of making section 439 of the General Education Provisions Act inapplicable.

(c) The following chart lists the funded programs to which part 98 does not apply as of February 16, 1984.

| Name of program | Authorizing statute | Implementing regulations |
|---|--|---|
| 1. High School Equivalency Program and College Assistance Migrant Program. | Section 418A of the Higher Education Act of 1965 as amended by the Education Amendments of 1980 (Pub. L. 96-374) 20 U.S.C. 1070d-2). | part 206. |
| 2. Programs administered by the Commissioner of the Rehabilitative Services Administration. | The Rehabilitation Act of 1973 as amended by Pub. L. 95-602 (29 U.S.C. 700, et seq.). | parts 351-356, 361, 362, 365, 366, 369-375, 378, 379, 385-390, and 395. |
| 3. College housing | Title IV of the Housing Act of 1950 as amended (12 U.S.C. 1749, et seq.). | part 614. |

(Authority: 20 U.S.C. 1221e-3(a)(1), 1230, 1232h, 3487, 3507)

§ 98.2 Definitions.

(a) The following terms used in this part are defined in 34 CFR part 77; "Department," "Recipient," "Secretary."

(b) The following definitions apply to this part:

Act means the General Education Provisions Act.

Office means the information and investigation office specified in § 98.5.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 98.3 Access to instructional material used in a research or experimentation program.

(a) All instructional material—including teachers' manuals, films, tapes, or other supplementary instructional material—which will be used in con-

34 CFR Subtitle A (7-1-11 Edition)

nection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project.

(b) For the purpose of this part *research or experimentation program or project* means any program or project in any program under § 98.1 (a) or (b) that is designed to explore or develop new or unproven teaching methods or techniques.

(c) For the purpose of the section *children* means persons not above age 21 who are enrolled in a program under § 98.1 (a) or (b) not above the elementary or secondary education level, as determined under State law.

(Authority: 20 U.S.C. 1221e-3(a)(1), 1232h(a))

§ 98.4 Protection of students' privacy in examination, testing, or treatment.

(a) No student shall be required, as part of any program specified in § 98.1 (a) or (b), to submit without prior consent to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following:

- (1) Political affiliations;
- (2) Mental and psychological problems potentially embarrassing to the student or his or her family;
- (3) Sex behavior and attitudes;
- (4) Illegal, anti-social, self-incriminating and demeaning behavior;
- (5) Critical appraisals of other individuals with whom the student has close family relationships;
- (6) Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or
- (7) Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

(b) As used in paragraph (a) of this section, *prior consent* means:

- (1) Prior consent of the student, if the student is an adult or emancipated minor; or
- (2) Prior written consent of the parent or guardian, if the student is an unemancipated minor.