under any program or activity con-
ducted by the agency; or
(ii) Defeat or substantially impair
the accomplishment of the objectives
of a program or activity with respect
to handicapped persons.
(b) The agency, in the selection of
procurement contractors, may not use
criteria that subject qualified handi-
capped persons to discrimination on
the basis of handicap.
(c) The exclusion of nonhandicapped
persons from the benefits of a program
limited by Federal statute or Execu-
tive order to handicapped persons or
the exclusion of a specific class of
handicapped persons from a program
limited by Federal statute or Execu-
tive order to a different class of handi-
capped persons is not prohibited by
this part.
(d) The agency shall administer pro-
grams and activities in the most inte-
grated setting appropriate to the needs
of qualified handicapped persons.
§§ 1041.131–1041.139 [Reserved]
§ 1041.140 Employment.
No qualified handicapped person
shall, on the basis of handicap, be sub-
jected to discrimination in employ-
ment under any program or activity
conducted by the agency. The defini-
tions, requirements, and procedures of
section 501 of the Rehabilitation Act of
1973 (29 U.S.C. 791), as established by
the Equal Employment Opportunity
Commission in 29 CFR part 1613, shall
apply to employment in federally con-
ducted programs or activities.
§§ 1041.141–1041.148 [Reserved]
§ 1041.149 Program accessibility: Dis-
crimination prohibited.
Except as otherwise provided in
§1041.150, no qualified handicapped per-
son shall, because the agency’s facili-
ties are inaccessible to or unusable by
handicapped persons, be denied the
benefits of, be excluded from participa-
tion in, or otherwise be subjected to
discrimination under any program or
activity conducted by the agency.
§ 1041.150 Program accessibility: Exis-
ting facilities.
(a) General. The agency shall operate
each program or activity so that the
program or activity, when viewed in its
entirety, is readily accessible to and
usable by handicapped persons. This
paragraph does not—
(1) Necessarily require the agency to
make each of its existing facilities ac-
cessible to and usable by handicapped
persons; or
(2) Require the agency to take any
action that it can demonstrate would
result in a fundamental alteration in
the nature of a program or activity or
in undue financial and administrative
burdens. In those circumstances where
agency personnel believe that the pro-
posed action would fundamentally
alter the program or activity or would
result in undue financial and adminis-
trative burdens, the agency has the
burden of proving that compliance with
§1041.150(a) would result in such alter-
ation or burdens. The decision that
compliance would result in such alter-
ation or burdens must be made by the
agency head or his or her designee
after considering all agency resources
available for use in the funding and op-
eration of the conducted program or
activity, and must be accompanied by
a written statement of the reasons for
reaching that conclusion. If an action
would result in such an alteration or
such burdens, the agency shall take
any other action that would not result
in such an alteration or such burdens
but would nevertheless ensure that
handicapped persons receive the bene-
fits and services of the program or ac-
tivity.
(b) Methods. The agency may comply
with the requirements of this section
through such means as redesign of
equipment, reassignment of services to
accessible buildings, assignment of
aides to beneficiaries, home visits, de-

delivery of services at alternate acces-
sible sites, alteration of existing facili-
ties and construction of new facilities,
use of accessible rolling stock, or any
other methods that result in making
its programs or activities readily ac-
cessible to and usable by handicapped
persons. The agency is not required to
make structural changes in existing fa-
cilities where other methods are effec-
tive in achieving compliance with this
section. The agency, in making alter-
ations to existing buildings, shall meet
§ 1041.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 1041.152–1041.159 [Reserved]

§ 1041.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD’s) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD’s) or equally effective telecommunication systems shall be used.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can