

Department of Justice

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§ 42.2 Designation of Director of Equal Employment Opportunity and Complaint Adjudication Officer.

(a) In compliance with the regulations of the Equal Employment Opportunity Commission (29 CFR 1613.204(c)), the Assistant Attorney General for Administration is hereby designated as Director of Equal Employment Opportunity for the Department of Justice with responsibilities for administration of the Equal Employment Opportunity Program within the Department. The Director of Equal Employment Opportunity shall publish and implement the Department of Justice regulations, which shall include a positive action program to eliminate causes of discrimination and shall include procedures for processing complaints of discrimination within the Department.

(b) The Assistant Attorney General in charge of the Civil Rights Division shall appoint a Complaint Adjudication Officer, who shall render final decisions for the Department of Justice on complaints of discrimination filed by employees and applicants for employment in the Department pursuant to the Department's Equal Employment Opportunity Regulations. In rendering decisions, the Complaint Adjudication Officer shall order such remedial action as may be appropriate, whether or not there is a finding of discrimination, but in cases where no discrimination is found any remedial action ordered shall have the prior approval of the Assistant Attorney General in charge of the Civil Rights Division, who shall consult with the Deputy Attorney General on the matter.

[Order No. 420-69, 34 FR 12281, July 25, 1969, as amended by Order No. 721-77, 42 FR 25725, May 19, 1977; Order No. 731-77, 42 FR 35646, July 11, 1977; Order No. 899-80, 45 FR 43703, June 30, 1980; Order No. 960-81, 46 FR 52357, Oct. 27, 1981]

§ 42.3 Responsibility for Department of Justice Equal Opportunity Recruitment Program.

The Assistant Attorney General for Administration shall be responsible for establishing and implementing the Department of Justice Equal Opportunity

Recruitment Program under 5 U.S.C. 7201.

[Order No. 865-79, 44 FR 77157, Dec. 31, 1979, as amended by Order No. 960-81, 46 FR 52357, Oct. 27, 1981]

Subpart B [Reserved]

Subpart C—Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964¹

AUTHORITY: 42 U.S.C. 2000d-2000d-7; E.O. 12250, 45 FR 72995, 3 CFR, 1980 Comp., p. 298.

SOURCE: Order No. 365-66, 31 FR 10265, July 29, 1966, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes by Order No. 2679-2003, appear at 68 FR 51364, Aug. 26, 2003.

§ 42.101 Purpose.

The purpose of this subpart is to implement the provisions of title VI of the Civil Rights Act of 1964, 78 Stat. 252 (hereafter referred to as the "Act"), to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Justice.

§ 42.102 Definitions.

As used in this subpart—

(a) The term *responsible Department official* with respect to any program receiving Federal financial assistance means the Attorney General, or Deputy Attorney General, or such other official of the Department as has been assigned the principal responsibility within the Department for the administration of the law extending such assistance.

(b) The term *United States* includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessions of the

¹See also 28 CFR 50.3. Guidelines for enforcement of Title VI, Civil Rights Act.

United States, and the term *State* includes any one of the foregoing.

(c) The term *Federal financial assistance* includes:

- (1) Grants and loans of Federal funds,
- (2) The grant or donation of Federal property and interests in property,
- (3) The detail of Federal personnel,
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- (5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(d) The terms *program or activity* and *program* mean all of the operations of any entity described in paragraphs (d)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (d)(1), (2), or (3) of this section.

(e) The term *facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

(f) The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.

(g) The term *primary recipient* means any recipient which is authorized or required to extend Federal financial assistance to another recipient.

(h) The term *applicant* means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term *application* means such an application, request, or plan.

(i) The term *academic institution* includes any school, academy, college, university, institute, or other association, organization, or agency conducting or administering any program, project, or facility designed to educate or train individuals.

(j) The term *disposition* means any treatment, handling, decision, sentencing, confinement, or other prescription of conduct.

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(k) The term *governmental organization* means the political subdivision for a prescribed geographical area.

[Order No. 365-66, 31 FR 10265, July 29, 1966, as amended by Order No. 699-77, 42 FR 15315, Mar. 21, 1977; Order No. 960-81, 46 FR 52357, Oct. 27, 1981; Order No. 2679-2003, 68 FR 51363, 51364, Aug. 26, 2003]

§ 42.103 Application of this subpart.

This subpart applies to any program for which Federal financial assistance is authorized under a law administered by the Department. It applies to money paid, property transferred, or other Federal financial assistance extended after the date of this subpart pursuant to an application whether approved before or after such date. This subpart does not apply to:

(a) Any Federal financial assistance by way of insurance or guaranty contracts, or

(b) Employment practices except to the extent described in § 42.104(c).

[Order No. 365-66, 31 FR 10265, July 29, 1966, as amended by Order No. 519-73, 38 FR 17955, July 5, 1973]

§ 42.104 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any disposition, service, financial aid, or benefit provided under the program;

(ii) Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any disposition, service, financial aid, or benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving

any disposition, service, financial aid, or benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program; or

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient, in determining the type of disposition, services, financial aid, benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.