§ 1170.13

(45 CFR Ch. XI (10–1–13 Edition))

benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient’s program or activity;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) A recipient may not deny a qualified handicapped person the opportunity to participate in aid, benefits, or services that are not separate or different, despite the existence of possibly separate or different aid, benefits, or services.

(c) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration.

(1) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap,

(2) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient’s program or activity with respect to handicapped persons, or

(3) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(d) A recipient may not, in determining the site or location of a facility, make selections

(1) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal financial assistance or

(2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(e) The exclusion of nonhandicapped persons from aid, benefits, or services limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(f) Recipients shall administer programs or activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(g) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.


§ 1170.13 Illustrative examples.

(a) The following examples will illustrate the application of the foregoing provisions to some of the activities funded by the National Endowment for the Humanities.

(1) A publication or a museum catalogue supported by the Endowment may be made usable by the blind and the visually impaired through cassette tapes, records, discs, braille, readers and simultaneous publications.

(2) A lecture, meeting or symposium supported by Federal funds may be made available to deaf and hearing impaired persons through the use of a sign language interpreter or by providing scripts in advance of the performance.

(3) Specific aid, benefits, or services supported by Federal funds may be offered in an inaccessible facility provided that the same aid, benefit, or service is also offered to the public at large in an accessible space.

(4) A qualified handicapped person is one who is able to meet all requirements in spite of his handicap. An educational institution is not required to disregard the disabilities of handicapped individuals or to lower or to make substantial modifications of standards to accommodate a handicapped person.

(b) State humanities committees are obligated to develop methods of administering Federal funds so as to ensure that handicapped persons are not subjected to discrimination on the basis of
handicap either by sub-grantees or by
the manner in which the funds are dis-
tributed.

(c) In the event Endowment funds are
utilized to construct, expand, alter,
lease or rent a facility, the benefits of
the program or activity provided in or
through that facility must be con-
ducted in accordance with these regu-
lations, e.g., a museum receiving a
grant to renovate an existing facility
must assure that all museum aid, ben-
fits, or services conducted in that facil-
ity are accessible to handicapped per-
sons.

(d) In carrying out the mandate of
section 504 and these implementing
regulations recipients should admin-
ister Endowment assisted programs or
activities in the most integrated set-
ing appropriate, e.g., tours made
available to the hearing impaired
should be open to the public at large
and everyone should be permitted to
enjoy the benefits of a tactile experi-
ence in a museum.

[46 FR 55897, Nov. 12, 1981, as amended at 68
FR 51386, Aug. 26, 2003]

§ 1170.14–1170.20 [Reserved]

Subpart C—Employment Practices

§ 1170.21 Discrimination prohibited.

(a) General. No qualified handicapped
person shall, on the basis of handicap,
be subjected to discrimination in em-
ployment under any program or activ-
ity that receives Federal financial as-
sistance.

(b) A recipient shall make all deci-
sions concerning employment under
any program or activity to which this
part applies in a manner which ensures
that discrimination on the basis of
handicap does not occur and may not
limit, segregate, or classify applicants
or employees in any way that ad-
versely affects their opportunities or
status because of handicap.

(c) A recipient may not participate in
a contractual or other relationship
that has the effect of subjecting quali-
fied handicapped applicants or employ-
ees to discrimination prohibited by
this subpart. The relationships referred
to in this paragraph include relation-
ships with employment and referral
agencies, with labor unions, with orga-
nizations providing or administering
fringe benefits to employees of the re-
cipient, and with organizations pro-
siding training and apprenticeships.

(d) Specific activities. The provisions
of this subpart apply to:

(1) Recruitment, advertising, and the
processing of applications for employ-
ment;

(2) Hiring, upgrading, promotion,
award of tenure, demotion, transfer,
layoff, termination, right of return
from layoff and rehiring;

(3) Rates of pay or any other form of
compensation and changes in compen-
sation;

(4) Job assignments, job classifica-
tions, organizational structures, posi-
tion descriptions, lines of progression,
and seniority lists;

(5) Leaves of absence, sick leave, or
any other leave;

(6) Fringe benefits available by vir-
tue of employment, whether or not ad-
ministered by the recipient;

(7) Selection and financial support
for training, including apprenticeship,
professional meetings, conferences, and
other related activities, and selection
for leaves of absence to pursue train-
ing;

(8) Employer sponsored activities, in-
cluding those that are social or recre-
ational; and

(9) Any other term, condition, or
privilege of employment.

(e) A recipient’s obligation to comply
with this subpart is not affected by any
inconsistent term of any collective
bargaining agreement to which it is a
party.

[46 FR 55897, Nov. 12, 1981, as amended at 68
FR 51386, Aug. 26, 2003]

§ 1170.22 Reasonable accommodation.

(a) A recipient shall make reasonable
accommodation to the known physical
or mental limitations of an otherwise
qualified handicapped applicant or em-
ployee unless the recipient can dem-
onstrate that the accommodation
would impose an undue hardship on the
operation of its program or activity.

(b) Reasonable accommodation may
include:

(1) Making facilities used by employ-
ees readily accessible to and usable by
handicapped persons, and