PART 21—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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SOURCE: 35 FR 10080, June 18, 1970, unless otherwise noted.

§ 21.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the Act) to the end that no person in the United States shall, on the grounds 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 or activity receiving Federal financial assistance from the Department of Transportation.

§ 21.3 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the types of Federal financial assistance listed in appendix A to this part. It also applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of this part pursuant to an application approved before that effective date. This part does not apply to:

(1) Any Federal financial assistance by way of insurance or guaranty contracts;

(2) Money paid, property transferred, or other assistance extended before the effective date of this part, except where such assistance was subject to the title VI regulations of any agency whose responsibilities are now exercised by this Department;

(3) Any assistance to any individual who is the ultimate beneficiary; or

(4) Any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 21.5(c).

The fact that a type of Federal financial assistance is not listed in appendix A to this part shall not mean, if title VI of the Act is otherwise applicable, that a program is not covered. Other types of Federal financial assistance under statutes now in force or hereinafter enacted may be added to appendix A to this part.

(b) In any program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving that assistance, the nondiscrimination requirement of this part shall extend to any facility located wholly or in part in that space.


§ 21.5 Discrimination prohibited.

(a) General. No person in the United States shall, on the grounds 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 part applies.

(b) Specific discriminatory actions prohibited:

(1) A recipient to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.
(i) Deny a person any service, financial aid, or other benefit provided under the program;
(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;
(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
(v) Treat a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit under the program;
(vi) Deny a person 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; or
(vii) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons 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 persons 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 with respect to 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 persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds 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 part.

(4) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(6) Examples demonstrating the application of the provisions of this section to certain types of Federal financial assistance administered by the Department of Transportation are contained in appendix C of this part.

(7) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where prior discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the applicant or recipient must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage. Even in the absence of prior discriminatory practice or usage, a recipient in administering a program or activity to which this part applies, is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the
grounds of race, color, or national origin.

(c) Employment practices:
(1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient or other party subject to this part shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(2) Federal financial assistance to programs under laws funded or administered by the Department which have as a primary objective the providing of facilities, and treatment of employees). Such recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of paragraph (c)(1) of this section shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(d) A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.


§ 21.7 Assurances required.

(a) General. (1) Every application for Federal financial assistance to which this part applies, except an application to which paragraph (b) of this section applies, except an application to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by, an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. Every award of Federal financial assistance shall require the submission of such an assurance. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which the Federal financial assistance is extended to the program. The Secretary shall specify the form of the foregoing assurances, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other
participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case where Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property or interest therein from the Federal Government is involved, but property is acquired or improved with Federal financial assistance, the recipient shall agree to include such covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the Secretary, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to subordinate such right of reversion to the lien of such mortgage or other encumbrance.

§21.9 Compliance information.

(a) Cooperation and assistance. The Secretary shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) Compliance reports. Each recipient shall keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part. In general recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.

(c) Access to sources of information. Each recipient shall permit access by the Secretary during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required
§ 21.11 Conduct of investigations.

(a) Periodic compliance reviews. The Secretary shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) Complaints. Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Secretary a written complaint. A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary.

(c) Investigations. The Secretary will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation will include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) Resolution of matters. (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the Secretary will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 21.13.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section the Secretary will so inform the recipient and the complainant, if any, in writing.

(e) Intimidatory or retaliatory acts prohibited. No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

[35 FR 10080, June 18, 1970, as amended by Amdt. 72–2, 38 FR 17997, July 5, 1973]

§ 21.13 Procedure for effecting compliance.

(a) General. If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) Noncompliance with § 21.7. If an applicant fails or refuses to furnish an assurance required under § 21.7 or otherwise fails or refuses to comply with a
requirement imposed by or pursuant to that section. Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph. However, subject to §21.21, the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application approved prior to the effective date of this part.

(c) Termination of or refusal to grant or to continue Federal financial assistance. No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:

(1) The Secretary has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means;
(2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part;
(3) The action has been approved by the Secretary pursuant to §21.17(e); and
(4) The expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action.

Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) Other means authorized by law. No action to effect compliance with title VI of the Act by any other means authorized by law shall be taken by this Department until:

(1) The Secretary has determined that compliance cannot be secured by voluntary means;
(2) The recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and
(3) The expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

§21.15 Hearings.

(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by §21.13(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either: (1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Secretary that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and §21.13(c) and consent to the making of a decision on the basis of such information as is available.

(b) Time and place of hearing. Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the Secretary unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before
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the Secretary, or at his discretion, before a hearing examiner appointed in accordance with section 3105 of title 5, United States Code, or detailed under section 3344 of title 5, United States Code.

(c) Right to counsel. In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) Procedures, evidence, and record. (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 554 through 557 of title 5, United States Code, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence do not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more Federal statutes, authorities, or other means by which Federal financial assistance is extended and to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules or procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with § 21.17.


§ 21.17 Decisions and notices.

(a) Procedure on decisions by hearing examiner. If the hearing is held by a hearing examiner, the hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may, within 30 days after the mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may, on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall, subject to paragraph (e) of this section, constitute the final decision of the Secretary.

(b) Decisions on record or review by the Secretary. Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Secretary conducts the hearing, the applicant or
recipient shall be given reasonable opportunity to file with him briefs or other written statements of its conten-
tions, and a written copy of the final decision of the Secretary shall be sent to the applicant or recipient and to the
complainant, if any.

(c) **Decisions on record where a hearing is waived.** Whenever a hearing is waived pursuant to §21.15, a decision shall be
made by the Secretary on the record and a written copy of such decision shall be sent to the applicant or recipi-
ent, and to the complainant, if any.

(d) **Rulings required.** Each decision of a hearing examiner or the Secretary shall set forth his ruling on each find-
ing, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant
to this part with which it is found that the applicant or recipient has failed to comply.

(e) **Approval by Secretary.** Any final decision by an official of the Depart-
ment, other than the Secretary personally, which provides for the suspension
or termination of, or the refusal to grant or continue Federal financial as-
sistance, or the imposition of any other sanction available under this part or
the Act, shall promptly be transmitted to the Secretary personally, who may
approve such decision, may vacate it, or remit or mitigate any sanction im-
posed.

(f) **Content of orders.** The final deci-
sion may provide for suspension or ter-
mination of, or refusal to grant or con-
tinue Federal financial assistance, in
whole or in part, to which this regula-
tion applies, and may contain such
terms, conditions, and other provisions
as are consistent with and will effec-
tuate the purposes of the Act and this
part, including provisions designed to
assure that no Federal financial assist-
tance to which this regulation applies
will thereafter be extended to the ap-
plicant or recipient determined by such
decision to be in default in its perform-
ance of an assurance given by it pursu-
ant to this part, or to have otherwise
failed to comply with this part, unless
and until it corrects its noncompliance
and satisfies the Secretary that it will
fully comply with this part.

(g) **Post termination proceedings.** (1) An
applicant or recipient adversely af-
fected by an order issued under para-
graph (f) of this section shall be re-
stored to full eligibility to receive Fed-
eral financial assistance if it satisfies
the terms and conditions of that order
for such eligibility or if it brings itself
into compliance with this part and pro-
vides reasonable assurance that it will
fully comply with this part.

(2) Any applicant or recipient ad-
versely affected by an order entered
pursuant to paragraph (f) of this sec-
tion may at any time request the Sec-
retary to restore fully its eligibility to
receive Federal financial assistance.
Any such request shall be supported by
information showing that the applicant
or recipient has met the requirements
of paragraph (g)(1) of this section. If
the Secretary determines that those
requirements have been satisfied, he
shall restore such eligibility.

(3) If the Secretary denies any such
request, the applicant or recipient may
submit a request for a hearing in writ-
ing, specifying who it believes such of-
official to have been in error. It shall
thereupon be given an expeditious
hearing, with a decision on the record
in accordance with rules or procedures
issued by the Secretary. The applicant
or recipient will be restored to such eli-
gibility if it proves at such a hearing
that it satisfied the requirements of
paragraph (g)(1) of this section.

While proceedings under this paragraph
are pending, the sanctions imposed by
the order issued under paragraph (f) of
this section shall remain in effect.

[35 FR 10080, June 18, 1970, as amended at 68
FR 51389, Aug. 26, 2003]

§ 21.19 **Judicial review.**

Action taken pursuant to section 602
of the Act is subject to judicial review
as provided in section 603 of the Act.

§ 21.21 **Effect on other regulations,
forms, and instructions.**

(a) **Effect on other regulations.** All reg-
ulations, orders, or like directions
issued before the effective date of this
part by any officer of the Department
which impose requirements designed to
prohibit any discrimination against in-
dividuals on the grounds of race, color,
or national origin under any program
to which this part applies, and which

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authorize the suspension or termination of or refusal to grant or to con-
tinue Federal financial assistance to any applicant for a recipient of such
assistance for failure to comply with such requirements, are hereby super-
seded to the extent that such discrimi-
nation is prohibited by this part, ex-
cept that nothing in this part may be
considered to relieve any person of any
obligation assumed or imposed under
any such superseded regulation, order,
instruction, or like direction before the
effective date of this part. Nothing in
this part, however, supersedes any of
the following (including future amend-
ments thereof): (1) Executive Order
11246 (3 CFR, 1965 Supp., p. 167) and reg-
ulations issued thereunder or (2) any
other orders, regulations, or instruc-
tions, insofar as such orders, regulations,
or instructions prohibit discrimi-
nation on the ground of race, color, or
national origin in any program or situ-
atation to which this part is inapplicable,
or prohibit discrimination on any other

(b) Forms and instructions. The Sec-
retary shall issue and promptly make
available to all interested persons
forms and detailed instructions and
procedures for effectuating this part as
applied to programs to which this part
applies and for which he is responsible.

(c) Supervision and coordination. The
Secretary may from time to time as-
sign to officials of the Department, or
to officials of other departments or
agencies of the Government with the
consent of such departments or agen-
cies, responsibilities in connection
with the effectuation of the purposes of
title VI of the Act and this part (other
than responsibility for final decision as
provided in §21.17), including the
achievement of effective coordination
and maximum uniformity within the
Department and within the Executive
Branch of the Government in the appli-
cation of title VI and this part to simi-
lar programs and in similar situations.
Any action taken, determination made
or requirement imposed by an official
of another department or agency act-
ing pursuant to an assignment of re-
sponsibility under this paragraph shall
have the same effect as though such ac-
tion had been taken by the Secretary
of this Department.

§ 21.23 Definitions.

Unless the context requires other-
wise, as used in this part:

(a) Applicant means a person who sub-
mits an application, request, or plan
required to be approved by the Sec-
retary, or by a primary recipient, as a
condition to eligibility for Federal fi-
nancial assistance, and “application”
means such an application, request, or
plan.

(b) Facility includes all or any part of
structures, equipment, or other real or
personal property or interests therein,
and the provision of facilities includes
the construction, expansion, renova-
tion, remodeling, alteration or acquisi-
tion of facilities.

(c) Federal financial assistance in-
cludes:

(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 per-
mission to use (on other than a casual
or transient basis), Federal property or
any interest in such property without
consideration or at a nominal consider-
tation, or at a consideration which is re-
duced for the purpose of assisting the
recipient, or in recognition of the pub-
lic interest to be served by such sale or
lease to the recipient; and
(5) Any Federal agreement, arrange-
ment, or other contract which has as
one of its purposes the provision of as-
sistance.

(d) Primary recipient means any re-
cipient that is authorized or required
to extend Federal financial assistance
to another recipient.

(e) Program or activity and program
mean all of the operations of any enti-
ty described in paragraphs (e)(1)
through (4) of this section, any part of
which is extended Federal financial as-
sistance:

(1)(i) A department, agency, special
purpose district, or other instrument-
tality of a State or of a local govern-
ment; or
(i) 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;

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

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

(iv) 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 (e)(1), (2), or (3) of this section.

(f) **Recipient** may mean any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary.

(g) **Secretary** means the Secretary of Transportation or, except in §21.17 (e), any person to whom he has delegated his authority in the matter concerned.


APPENDIX B TO PART 21—ACTIVITIES TO WHICH THIS PART APPLIES WHEN A PRIMARY OBJECTIVE OF THE FEDERAL FINANCIAL ASSISTANCE IS TO PROVIDE EMPLOYMENT

1. Appalachia Regional Development Act of 1965 (40 U.S.C. App. 1 et seq.).

APPENDIX C TO PART 21—APPLICATION OF PART 21 TO CERTAIN FEDERAL FINANCIAL ASSISTANCE OF THE DEPARTMENT OF TRANSPORTATION

Nondiscrimination on Federally Assisted Projects

(a) Examples. The following examples, without being exhaustive, illustrate the application of the nondiscrimination provisions of this part on projects receiving Federal financial assistance under the programs of certain Department of Transportation operating administrations:

(1) Federal Aviation Administration. (i) The airport sponsor or any of his lessees, concessionaires, or contractors may not differentiate between members of the public because of race, color, or national origin in furnishing, or admitting to, waiting rooms, passenger holding areas, aircraft tiedown areas, restaurant facilities, restrooms, or facilities operated under the compatible land use concept.

(ii) The airport sponsor and any of his lessees, concessionaires, or contractors must offer to all members of the public the same degree and type of service without regard to race, color, or national origin. This rule applies to fixed base operators, restaurants, snack bars, gift shops, ticket counters, baggage handlers, car rental agencies, limousines and taxis franchised by the airport sponsor, insurance underwriters, and other businesses catering to the public at the airport.

(iii) An aircraft operator may not be required to park his aircraft at a location that is less protected, or less accessible from the terminal facilities, than locations offered to others, because of his race, color, or national origin.

(iv) The pilot of an aircraft may not be required to help more extensively in fueling operations, and may not be offered less incidental service (such as windshield wiping), than other pilots, because of his race, color, or national origin.

(v) No pilot or crewmember eligible for access to a pilot's lounge or to unofficial communication facilities such as a UNICOM frequency may be restricted in that access because of his race, color, or national origin.

(vi) Access to facilities maintained at the airport by air carriers or commercial operators for holders of first-class transportation tickets or frequent users of the carrier's or operator's services may not be restricted on the basis of race, color, or national origin.

(vii) Passengers and crewmembers seeking ground transportation from the airport may not be assigned to different vehicles, or delayed or embarrassed in assignment to vehicles, by the airport sponsor or his lessees, concessionaires, or contractors, because of race, color, or national origin.

(viii) Where there are two or more sites having equal potential to serve the aeronautical needs of the area, the airport sponsor shall select the site least likely to adversely affect existing communities. Such site selection shall not be made on the basis of race, color, or national origin.

(ix) Employment at obligated airports, including employment by tenants and concessionaires shall be available to all regardless of race, creed, color, sex, or national origin. The sponsor shall coordinate his airport plan with his local transit authority and the Urban Mass Transportation Administration to assure public transportation, convenient to the disadvantaged areas of nearby communities to enhance employment opportunities for the disadvantaged and minority population.

(x) The sponsor shall assure that the minority business community is advised of the opportunities offered by airport concessions, and that bids are solicited from such qualified minority firms, and awards made without regard to race, color, or national origin.

(2) Federal Highway Administration. (i) The State, acting through its highway department, may not discriminate in its selection and retention of contractors, including without limitation, those whose services are retained for, or incidental to, construction, planning, research, highway safety, engineering, property management, and fee contracts and other commitments with person for services and expenses incidental to the acquisition of right-of-way.
(ii) The State may not discriminate against eligible persons in making relocation payments and in providing relocation advisory assistance where relocation is necessitated by highway right-of-way acquisitions.

(iii) Federal-aid contractors may not discriminate in their selection and retention of first-tier subcontractors, and first-tier subcontractors may not discriminate in their selection and retention of second-tier subcontractors, who participate in Federal-aid highway construction, acquisition of right-of-way and related projects, including those who supply materials and lease equipment.

(iv) The State may not discriminate against the traveling public and business users of the federally assisted highway in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed on, over or under the right-of-way of such highways.

(v) Neither the State, any other persons subject to this part, nor its contractors and subcontractors may discriminate in their employment practices in connection with a project on the basis of race, color, or national origin. The location of routes may not be determined on the basis of race, color, or national origin.

(b) Obligations of the airport operator—(1) Tenants, contractors, and concessionaires. Each airport operator shall require each tenant, contractor, and concessionaire who provides any activity, service, or facility at the airport under lease, contract with, or franchise from the airport, to covenant in a form specified by the Administrator, Federal Aviation Administration, that he will comply with the nondiscrimination requirements of this part.

(2) Notification of beneficiaries. The airport operator shall: (1) Make a copy of this part available at his office for inspection during normal working hours by any person asking for it, and (ii) conspicuously display a sign, or signs, furnished by the FAA, in the main public area or areas of the airport, stating that discrimination based on race, color, or national origin is prohibited on the airport.

(3) Reports. Each airport owner subject to this part shall, within 15 days after he receives it, forward to the Area Manager of the FAA Area in which the airport is located a report of each written complaint charging discrimination because of race, color, or national origin by any person subject to this part, together with a statement describing all actions taken to resolve the matter, and the results thereof. Each airport operator shall submit to the area manager of the FAA area in which the airport is located a report for the preceding year on the date and in a form prescribed by the Federal Aviation Administration.


PART 22—SHORT-TERM LENDING PROGRAM (STLP)

Subpart A—General

22.1 Purpose.

22.3 Definitions.

Subpart B—Policies applying to STLP loans

22.11 Eligibility criteria.

22.13 Loan terms and conditions.

22.15 Delinquency on Federal, State, and Municipal debt.

22.17 Compliance with child support obligations.

22.19 Credit criteria.