§ 15.3

(j) Applicant means one who submits an application, request, or plan required to be approved by an Agency, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and application means such an application, request, or plan.

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

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

(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;

(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;

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

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

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.


§ 15.3 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 or activity of the applicant or recipient to which these regulations apply. These regulations apply, but are not restricted, to unequal treatment in priority, quality, quantity, methods or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement.

(b) Specific discriminatory actions prohibited. (1) A recipient under any program to which the regulations in this part apply may not, directly or through contractual or other arrangements on the ground of race, color, or national origin:

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

(ii) Provide any service, financial aid, or other 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 service, financial aid, or other benefit under the program;

(iv) Restrict an individual 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 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 service, financial aid, or other benefit under the program;

(vi) Deny an individual an opportunity to participate in the program;
through the provisions of services or otherwise or afford him an opportunity
to do so which is different from that af-
forded others under the program (in-
cluding the opportunity to participate
in the program as an employee but
only to the extent set forth in para-
graph (c) of this section).

(vii) Deny a person the opportunity
to participate as a member of a plan-
ing or advisory body which is an inte-
gral part of the program.

(2) A recipient, in determining the
types of services, financial aid, or other
benefits, or facilities which will be pro-
vided under any such program, or the
class of individuals to whom, or the sit-
uations in which, such services, finan-
cial aid, other benefits, or facilities
will be provided under any such pro-
gram or the class of individuals to be
afforded an opportunity to participate
in any such program, may not, directly
or through contractual or other ar-
rangements, utilize criteria or methods
of administration which have the effect
of subjecting individuals to discrimina-
tion because of their race, color, or na-
tional origin, or have the effect of de-
feating or substantially impairing ac-
complishment of the objectives of the
program as respects individuals of a par-
ticular race, color, or national ori-
gin.

(3) In determining the site or loca-
tion of facilities, an applicant or re-
cipient may not make selections with
the purpose or effect of excluding indi-
viduals from, denying them the bene-
fits of, or subjecting them to discrimi-
nation under any of its programs or ac-
tivities to which the regulations in this
part apply, on the grounds of race, color,
or national origin, or with the purpose or
effect of defeating or sub-
stantially impairing the accom-
plishment of the objectives of the
program as respects individuals of a par-
ticular race, color, or national ori-
gin.

(4) As used in this section, the serv-
ces, financial aid, or other benefit pro-
voked under a program or activity of an
applicant or recipient receiving Fed-
eral financial assistance shall be
deemed to include any and all services,
financial aid, or other benefit provided
in or through a facility provided or im-
proved in whole or part with the aid of
Federal financial assistance.

(5) The enumeration of specific forms
of prohibited discrimination in these
regulations does not limit the applica-
bility of the provisions of paragraph (a)
of this section.

(6)(i) In administering a program re-
garding which the recipient has pre-
viously discriminated against persons
on the ground of race, color, or na-
tional origin, the recipient must take
affirmative action to overcome the ef-
ffects of prior discrimination.

(ii) Even in the absence of such prior
discrimination, a recipient in admin-
istering a program may take affirm-
ate action to overcome the effects of
conditions which resulted in limiting
participation by persons of a particular
race, color or national origin.

(c) Employment practices. Where a pri-
mary objective of the Federal financial
assistance to a program to which the
regulations in this part apply is to pro-
vide employment, a recipient may not,
directly or through contractual or
other arrangements, subject an indi-
vidual to discrimination on the ground
of race, color, or national origin in its
employment practices under the pro-
gram including recruitment or recruit-
ment advertising, employment, layoff
or termination, upgrading, demotion,
or transfer, rates of pay or other forms
of compensation, and use of facilities.
This paragraph applies to programs
where a primary objective of the Fed-
eral financial assistance is (1) to reduce
unemployment, (2) to assist individuals
in meeting expenses incident to the
commencement or continuation of
their education or training, or (3) to
provide work experience which contrib-
utes to education or training. Where a
primary objective of the Federal finan-
cial assistance is not to provide em-
ployment, but discrimination on the
grounds of race, color, or national ori-
gin in the employment practices of the
recipient or other persons subject to
the regulations in this part, tends, on
the grounds of race, color, or national
origin, to exclude individuals from par-
ticipation in, to deny them the benefits
of, or to subject them to discrimina-
tion under any program or activity of
the applicant or recipient to which
these regulations apply, the foregoing
provisions of this § 15.3(c) shall apply to
the employment practices of the recipient or other persons subject to these regulations, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or activity of the applicant or recipient shall be those specified in or pursuant to part III of Executive Order 11246 or any Executive order which supersedes it.

(d) Examples. In order that all parties may have a clear understanding of the applicability of the regulations in this part to their activities, there are listed in this section types of Federal financial assistance together with illustrations, by way of example only, of types of activity covered by the regulations in this part. These illustrations and examples, however, are not intended to be all inclusive. The fact that a particular type of Federal financial assistance is not listed does not, of course, indicate that a program is not covered by the regulations in this part. Moreover, the examples set forth with respect to any particular listed type of Federal financial assistance are not limited to that program alone and the prohibited actions described may also be prohibited in other programs or activities whether or not listed below.

(1) Cooperative Agricultural Extension Program. (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;

(ii) Discrimination in the use in any program or activity funded by the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvements; or

(iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by, or in which the Cooperative Extension Service participates.

(2) Rural Electrification and Rural Telephone Programs. (i) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(ii) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(iii) Denial by a borrower to any person of the benefits of improvement, expansion or upgrading, or discrimination by a borrower among consumers or subscribers in improving, expanding or upgrading, of electric or telephone service;

(iv) Discrimination by a borrower in respect of rates, or terms or conditions of service among consumers or subscribers;

(v) Exclusion by a borrower of any member or stockholder, if the borrower is a cooperative or mutual type of corporation, from participation in any meeting of members or stockholders of the borrower, discrimination among its members or stockholders in respect of the exercise of any of their rights as members or stockholders, or in the manner of the exercise of such rights; or

(vi) Exclusion by a borrower of any consumer or subscriber from, denial by a borrower to any consumer or subscriber of the use of, or discrimination by a borrower against any consumer or subscriber in his use of, any of the borrower's facilities.

(3) Direct Distribution Program. (i) Exclusion of an otherwise eligible recipient agency (school, summer camp for children, institution, welfare agency or disaster organization) or person from participation in the Direct Distribution Program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the Program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in different meal periods or by different seating or serving or different food or different size portions by recipient
agencies serving prepared meals containing donated foods.

4) National School Lunch Program.
   (i) Discrimination by a State agency in the selection of schools to participate in the Program or in the assignment to schools of rates of reimbursement.
   (ii) Exclusion of any child from participation in the Program.
   (iii) Discrimination by school officials in the selection of children to receive free or reduced-price lunches.
   (iv) Segregation of participating children in different lunch periods or different seating, and discrimination by serving different food or different size portions.
   (v) Failure to offer free and reduced-price lunches, on an equitable basis in schools of a school district in which children are assigned to schools on the basis of race, color, or national origin.

5) Food Stamp Program.
   (i) Discrimination by a State agency in certifying households as eligible for the Program.
   (ii) Segregation or other discrimination in the manner in which or the times at which eligible households are issued food coupons.

6) Special Milk Program for Children.
   (i) Discrimination by a State agency in the selection of schools and child-care institutions to participate in the Program.
   (ii) Discrimination by a State agency in the selection of needy schools to receive reimbursement for milk served free.
   (iii) Discrimination by a State agency in the assignment of reimbursement rates to schools and child-care institutions or in the adjustment of such rates, or in fixing allowable distribution costs.
   (iv) Exclusion of any child from participation in the Program and segregation of participating children in different serving periods or different places of service.

7) Price Support Programs carried out through producer associations or cooperatives or through persons who are required to provide specified benefits to producers.
   (i) Denial of the benefits of price support for a producers commodity.
   (ii) Denial of membership or stock ownership to any producer by any association or cooperative.
   (iii) Discrimination among producers in the manner of making or paying any price support advances, loans, or payments.
   (iv) Discrimination in the fees or charges collected from or in the net gains distributed to producers.
   (v) Discrimination in the use of facilities and services generally made available to members or patrons under the Price Support Program.

8) Forest Service Programs.
   (i) Refusal or failure by a recipient of a permit or lease to provide to any person the benefits from the use of land administered by the Forest Service, the resources therefrom, or improvements thereon.
   (ii) Refusal or failure by any recipient to provide to any person the benefits from Federal payments based on a share of the receipts from lands administered by the Forest Service.
   (iii) Refusal or failure by any recipient to provide to any person the benefits from Federal assistance in cooperative programs for the protection, development, management, and use of forest resources.
   (iv) Refusal or failure by any cooper or other recipient to provide to any person the benefits from Federal assistance through grants or advances of funds for research.

9) Farmers Home Administration Programs—(i) Direct soil and water loans to association.
   (a) A borrower's denial of, or discrimination in furnishing, services under a program or activity financed wholly or partially with the aid of the loan, as in the case of a water supply system.
   (b) A borrower's failure or refusal to provide to any person the benefits from Federal assistance through grants or advances of funds for research.
   (c) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a
§ 15.4 Assurances required.

(a) General. (1) Every application for Federal financial assistance to which these regulations apply, 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 applicant’s program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the Act and the regulations in this part. 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 the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and 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 Federal financial assistance is extended pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial research training benefits as a result of such employment.