

Off. of Spec. Educ. and Rehab. Services, Education

§ 303.111

relating to this part conform to the purposes and requirements of this part.

(Authority: 20 U.S.C. 1407(a)(1))

§ 303.103 Abrogation of State sovereign immunity.

(a) *General.* A State is not immune under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of part C of the Act.

(b) *Remedies.* In a suit against a State for a violation of part C of the Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in a suit against any public entity other than a State.

(c) *Effective date.* Paragraphs (a) and (b) of this section apply with respect to violations that occur in whole or part after October 30, 1990, the date of enactment of the Education of the Handicapped Act Amendments of 1990.

(Authority: 20 U.S.C. 1403)

EQUIPMENT AND CONSTRUCTION

§ 303.104 Acquisition of equipment and construction or alteration of facilities.

(a) *General.* If the Secretary determines that a program authorized under part C of the Act will be improved by permitting program funds to be used to acquire appropriate equipment or to construct new facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes.

(b) *Compliance with certain regulations.* Any construction of new facilities or alteration of existing facilities under paragraph (a) of this section must comply with the requirements of—

(1) Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the “Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities”); or

(2) Appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the “Uniform Federal Accessibility Standards”).

(Authority: 20 U.S.C. 1404)

POSITIVE EFFORTS TO EMPLOY AND ADVANCE QUALIFIED INDIVIDUALS WITH DISABILITIES

§ 303.105 Positive efforts to employ and advance qualified individuals with disabilities.

Each recipient of assistance under part C of the Act must make positive efforts to employ and advance in employment, qualified individuals with disabilities in programs assisted under part C of the Act.

(Authority: 20 U.S.C. 1405)

MINIMUM COMPONENTS OF A STATEWIDE SYSTEM

§ 303.110 Minimum components of a statewide system.

Each statewide system (system) must include, at a minimum, the components described in §§ 303.111 through 303.126.

(Approved by Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1435(a))

§ 303.111 State definition of developmental delay.

Each system must include the State’s rigorous definition of *developmental delay*, consistent with §§ 303.10 and 303.203(c), that will be used by the State in carrying out programs under part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under part C of the Act. The definition must—

(a) Describe, for each of the areas listed in § 303.21(a)(1), the evaluation and assessment procedures, consistent with § 303.321, that will be used to measure a child’s development; and

(b) Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in § 303.21(a)(1).

(Approved by Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1435(a)(1))