

§ 113.1

- 113.110 Remedial and affirmative action and self-evaluation.
- 113.115 Assurance required.
- 113.120 Transfers of property.
- 113.125 Effect of other requirements.
- 113.130 Effect of employment opportunities.
- 113.135 Designation of responsible employee and adoption of grievance procedures.
- 113.140 Dissemination of policy.

COVERAGE

- 113.200 Application.
- 113.205 Educational institutions and other entities controlled by religious organizations.
- 113.210 Military and merchant marine educational institutions.
- 113.215 Membership practices of certain organizations.
- 113.220 Admissions.
- 113.225 Educational institutions eligible to submit transition plans.
- 113.230 Transition plans.
- 113.235 Statutory amendments.

DISCRIMINATION ON THE BASIS OF SEX IN ADMISSION AND RECRUITMENT PROHIBITED

- 113.300 Admission.
- 113.305 Preference in admission.
- 113.310 Recruitment.

DISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES PROHIBITED

- 113.400 Education programs or activities.
- 113.405 Housing.
- 113.410 Comparable facilities.
- 113.415 Access to course offerings.
- 113.420 Access to schools operated by LEAs.
- 113.425 Counseling and use of appraisal and counseling materials.
- 113.430 Financial assistance.
- 113.435 Employment assistance to students.
- 113.440 Health and insurance benefits and services.
- 113.445 Marital or parental status.
- 113.450 Athletics.
- 113.455 Textbooks and curricular material.

DISCRIMINATION ON THE BASIS OF SEX IN EMPLOYMENT IN EDUCATION PROGRAMS OR ACTIVITIES PROHIBITED

- 113.500 Employment.
- 113.505 Employment criteria.
- 113.510 Recruitment.
- 113.515 Compensation.
- 113.520 Job classification and structure.
- 113.525 Fringe benefits.
- 113.530 Marital or parental status.
- 113.535 Effect of state or local law or other requirements.
- 113.540 Advertising.
- 113.545 Pre-employment inquiries.
- 113.550 Sex as a bona fide occupational qualification.

13 CFR Ch. I (1–1–21 Edition)

PROCEDURES

- 113.600 Notice of covered programs.
- 113.605 Enforcement procedures.

AUTHORITY: 15 U.S.C. 633, 634, 687, 1691; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688; 29 U.S.C. 794; Sec. 5, Pub. L. 85–536, 72 Stat. 385, as amended; Sec. 308, Pub. L. 85–699, 72 Stat. 694, as amended.

SOURCE: 44 FR 20068, Apr. 4, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 113.1 Purpose.

(a) Part 112 of this chapter, issued pursuant to Title VI of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color, or national origin by some recipients of financial assistance from SBA. The purpose of this part is to reflect to the fullest extent possible the nondiscrimination policies of the Federal Government as expressed in the several statutes, Executive Orders, and messages of the President dealing with civil rights and equality of opportunity, and in the previous determination of the Administrator of the Small Business Administration that discrimination based on race, color, religion, sex, marital status, handicap or national origin shall be prohibited, to the extent that it is not prohibited by part 112 of this chapter, to all recipients of financial assistance from SBA.

(b) In accordance with Pub. L. 94–239, 15 U.S.C. 1691, cited as the Equal Credit Act Amendments of 1976, it is unlawful for any recipient creditor to discriminate against any applicant, with respect to any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age: (*Provided*, the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(c) It is the intention of the Administrator that the prohibitions in this part supplement those in part 112 of this chapter, that the two parts be read in *pari materia*, and that the procedures established herein be harmonized to the maximum extent feasible with

Small Business Administration

§ 113.2

those established in part 112 of this chapter.

§ 113.2 Definitions.

As used in this part:

(a) 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.

(b) The terms *applicant* and *recipient* mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section. The term *subrecipients* of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4(b)) shall be deemed a recipient of financial assistance.

(c) The term *religion* includes all aspects of religious observance and practice, as well as belief.

(d) The term *qualified handicapped person* means (1) with respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) The term *handicapped person*, as defined by the guideline set forth by the Department of Health, Education, and Welfare in § 85.31 of title 45 of the CFR (43 FR 2137, dated January 13, 1978), means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an

impairment, or is regarded as having such an impairment.

(f) As used in paragraph (e) of this section, the phrase:

(1) *Physical or mental impairment* means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (f)(1) of this section but is treated by a recipient as having such an impairment.

(g) The term *reasonable accommodation* as used in these Regulations may include: (1) making facilities used by employees readily accessible to and usable by handicapped persons; and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices,