

**§§ 4.531–4.539**

program or activity with respect to disabled persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude disabled persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to disabled persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified disabled persons to discrimination on the basis of disability.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified disabled persons to discrimination on the basis of disability, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified disabled persons to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nondisabled persons from the benefits of a program limited by Federal statute or Executive order to disabled persons or the exclusion of a specific class of disabled persons from a program limited by Federal statute or Executive order to a different class of disabled persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified disabled persons.

**§§ 4.531–4.539 [Reserved]**

**§ 4.540 Employment.**

No qualified disabled person shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission

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in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

**§§ 4.541–4.548 [Reserved]**

**§ 4.549 Program accessibility: Discrimination prohibited.**

Except as otherwise provided in § 4.550, no qualified disabled person shall, because the agency's facilities are inaccessible to or unusable by disabled persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

**§ 4.550 Program accessibility: Existing facilities.**

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by disabled persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by disabled persons;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 4.550(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action