

§ 105.3 Definitions.

For purposes of this part, the following definitions apply:

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Department. For example, auxiliary aids useful for persons with impaired vision include readers, materials in braille, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation of section 504. It must be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties must describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Historic preservation programs means programs conducted by the Department that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Individual with handicaps 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. As used in this definition, the phrase—

(1) *Physical or mental impairment* includes—

(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* includes 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; and

(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 the Department 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 the impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Department as having such an impairment.

Qualified individual with handicaps means—

(1) With respect to preschool, elementary, or secondary education services provided by the Department, an individual with handicaps who is a member of a class of persons otherwise entitled by statute, regulation, or Department

policy to receive education services from the Department;

(2) With respect to any other Department program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Department can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other Department program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by §105.30

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955); the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506, 100 Stat. 1810); and the Civil Rights Restoration Act of 1987 (Pub. L. 100–259, 102 Stat. 28). As used in this part, section 504 applies only to programs or activities conducted by the Department and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§§ 105.4–105.9 [Reserved]

§105.10 Self-evaluation.

(a) The Department shall, within one year of the effective date of this part, evaluate its current policies and practices, and the effects thereof, that do

not or may not meet the requirements of this part, and, to the extent modification of any of those policies and practices is required, the Department shall proceed to make the necessary modifications.

(b) The Department shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The Department shall, for at least 3 years following completion of the self-evaluation, maintain on file, and make available for public inspection—

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§105.11 Notice.

The Department shall make available, to employees, applicants, participants, beneficiaries, and other interested persons, information regarding the provisions of this part and its applicability to the programs or activities conducted by the Department, and make that information available to them in such manner as the Secretary finds necessary to apprise those persons of the protections against discrimination assured them by section 504 and the regulations in this part.

§§ 105.12–105.19 [Reserved]

§105.20 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under, any program or activity conducted by the Department.

(b)(1) The Department, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;