

## Office of the Secretary of Transportation

## § 27.3

which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

### (D) *Transfers within two years.*

(1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

## **PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE**

### **Subpart A—General**

Sec.

- 27.1 Purpose.
- 27.3 Applicability.
- 27.5 Definitions.
- 27.7 Discrimination prohibited.
- 27.9 Assurance required.
- 27.11 Remedial action, voluntary action, and compliance planning.
- 27.13 Designation of responsible employee and adoption of grievance procedures.
- 27.15 Notice.
- 27.17 Effect of State or local law.

- 27.19 Compliance with Americans with Disabilities Act requirements and FTA policy.

### **Subpart B—Program Accessibility Requirements in Specific Operating Administration Programs: Airports, Railroads, and Highways**

- 27.71 Airport facilities.
- 27.72 Boarding assistance for aircraft.
- 27.75 Federal Highway Administration—highways.
- 27.77 Recipients of Essential Air Service subsidies.

### **Subpart C—Enforcement**

- 27.121 Compliance information.
- 27.123 Conduct of investigations.
- 27.125 Compliance procedure.
- 27.127 Hearings.
- 27.129 Decisions and notices.

**AUTHORITY:** Sec. 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); sec. 16 (a) and (d) of the Federal Transit Act of 1964, as amended (49 U.S.C. 5310 (a) and (f)); sec. 165(b) of the Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142 nt.).

**SOURCE:** 44 FR 31468, May 31, 1979, unless otherwise noted.

**EDITORIAL NOTE:** Nomenclature changes to part 27 appear at 61 FR 56424, Nov. 1, 1996.

### **Subpart A—General**

#### **§ 27.1 Purpose.**

The purpose of this part is to carry out the intent of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended, to the end that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

#### **§ 27.3 Applicability.**

(a) This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance.

(b) Design, construction, or alteration of buildings or other fixed facilities by public entities subject to part

## § 27.5

37 of this title shall be in conformance with appendix A to part 37 of this title. All other entities subject to section 504 shall design, construct or alter a building, or other fixed facilities shall be in conformance with either appendix A to part 37 of this title or the Uniform Federal Accessibility Standards, 41 CFR part 101-19 subpart 101-19.6, appendix A.

[44 FR 31468, May 31, 1979, as amended at 56 FR 45621, Sept. 6, 1991]

### § 27.5 Definitions.

As used in this part:

*Act* means the Rehabilitation Act of 1973, Public Law 93-112, as amended.

*Applicant* means one who submits an application, request, or plan to be approved by a Departmental official or by a primary recipient as a condition to eligibility for Federal financial assistance, and *application* means such an application, request, or plan.

*Commercial service airport* means an airport that is defined as a commercial service airport for purposes of the Federal Aviation Administration's Airport Improvement Program and that enplanes annually 2500 or more passengers and receives scheduled passenger service of aircraft.

*Department* means the Department of Transportation.

*Discrimination* means denying handicapped persons the opportunity to participate in or benefit from any program or activity receiving Federal financial assistance.

*Facility* means all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

*Federal financial assistance* means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of Federal personnel; or

(c) Real or personal property or any interest in, or use of such property, including:

(1) Transfers or leases of such property for less than fair market value or for reduced consideration; and

## 49 CFR Subtitle A (10-1-02 Edition)

(2) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

*Handicapped person* means (1) any person who (a) has a physical or mental impairment that substantially limits one or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. (2) As used in this definition, the phrase:

(a) *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; genito-urinary; 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; mental retardation; emotional illness; drug addiction; and alcoholism.

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

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

(d) *Is regarded as having an impairment* means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activity only as a result of the attitudes of others toward such an impairment; or