

undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the agency official responsible for implementation of the plan.

§ 1214.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as established in 41 CFR 101-19.600 to 101-19.607, apply to buildings covered by this section.

§§ 1214.152-1214.159 [Reserved]

§ 1214.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary

to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid will be provided, the agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide a sign at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be displayed at each primary entrance to each accessible facility.

(d) This section does not 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 § 1214.160 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 required to comply

with this section would result in such alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 1214.161–1214.169 [Reserved]

§ 1214.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Equal Opportunity Staff.

PART 1216—NONDISPLACEMENT OF EMPLOYED WORKERS AND NONIMPAIRMENT OF CONTRACTS FOR SERVICE

Sec.

- 1216.1-1 Purpose.
- 1216.1-2 Applicability of this part.
- 1216.1-3 Policy.
- 1216.1-4 Exceptions.

AUTHORITY: Secs. 402(12), 404(a), 420 of Pub. L. 93–113, 87 Stat. 394, 408, 414.

SOURCE: 40 FR 16209, Apr. 10, 1975, unless otherwise noted.

§ 1216.1-1 Purpose.

This part establishes rules to assure that the services of volunteers are limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of, or result in the displacement of, employed workers or impair existing contracts for service. It implements section 404(a) of the Domestic Volunteer Service Act of 1973, Pub. L. 93–113 (the “Act”).

§ 1216.1-2 Applicability of this part.

(a) All full-time and part-time volunteers assigned, referred or serving pursuant to grants, contracts, or agreements made pursuant to the Act.

(b) All agencies and organizations to which the volunteers in paragraph (a) of this section are assigned, referred or provide services.

§ 1216.1-3 Policy.

(a) Volunteers enrolled or participating in programs referred to in paragraphs (a) and (b) of § 1216.1-2 may not perform any services or duties or engage in activities which would otherwise be performed by an employed worker as part of his assigned duties as an employee.

(b) Volunteer referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which will supplant the hiring of employed workers. This prohibition is violated if, prior to engaging a volunteer, an agency or organization referred to in § 1216.1-2(c) had intended to hire a person to undertake all or a substantial part of the services, duties, or other activities to be provided by the volunteer.

(c) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which result in the displacement of employed workers. Such volunteers may not perform services or duties which have been performed by or were assigned to, any of the following:

- (1) Presently employed workers,
- (2) Employees who recently resigned or were discharged,
- (3) Employees who are on leave (terminal, temporary, vacation, emergency, or sick), or
- (4) Employees who are on strike or who are being locked out.

(d) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which impair existing contracts for service. This prohibition is violated if a contract for services is modified or cancelled because an agency or organization referred to in § 1216.1-2(b) engages a volunteer to provide or perform all or a substantial part of any services, duties, or other activities set forth in such contract.