

§ 18.13

suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof):

(1) Executive Orders 10925 (3 CFR, 1959-1963 Comp., p. 448), 11114 (3 CFR, 1959-1963, p. 774), and 11246 (3 CFR, 1965 Supp., p. 167) and regulations issued thereunder, or

(2) Executive Order 11063 (3 CFR, 1959-1963 Comp., p. 652) and regulations issued thereunder, or any other orders, regulations or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the grounds of race, color or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible agency officials shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department of Veterans Affairs or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 18.10) including the achievement of effective coordination and maximum uniformity within the Department of Veterans Affairs and within the executive branch of the Government in the application of Title VI and this part to similar programs and in similar situations. Any action

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taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action has been taken by the responsible official of this Agency.

[29 FR 19301, Dec. 31, 1964, as amended at 38 FR 17967, July 5, 1973. Designated subpart A at 45 FR 63268, Sept. 24, 1980; 68 FR 51369, Aug. 26, 2003]

§ 18.13 Definitions.

As used in this part:

(a) The term *agency* means the Department of Veterans Affairs, and includes each of its operating agencies and other organization units.

(b) The term *Secretary* means the Secretary of Veterans Affairs.

(c) The term *responsible agency official* with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department of Veterans Affairs or an official of another department or agency to the extent the Secretary has delegated authority to such official.

(d) The term *United States* means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term *State* means any one of the foregoing.

(e) The term *Federal financial assistance* includes (1) grants 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.

(f) The terms *program or activity* and *program* mean all of the operations of any entity described in paragraphs (f)(1) through (4) of this section, any

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part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (f)(1), (2), or (3) of this section.

(g) The term *facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in the United States, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, as-

signee, or transferee thereof, but such term does not include any ultimate beneficiary.

(i) The term *applicant* means a person who submits an application, request, or plan required to be approved by the Secretary, or by a recipient, as a condition to eligibility for Federal financial assistance, and *application* means such an application, request, or plan.

[29 FR 19301, Dec. 31, 1964, as amended at 38 FR 17967, July 5, 1973. Designated subpart A at 45 FR 63268, Sept. 24, 1980, and amended at 51 FR 10385, Mar. 26, 1986; 68 FR 51369, Aug. 26, 2003]

APPENDIX A TO SUBPART A OF PART 18— STATUTORY PROVISIONS TO WHICH THIS SUBPART APPLIES

1. Payments to State homes (38 U.S.C. 1741-1743).
2. State home facilities for furnishing domiciliary, nursing home, and hospital care (38 U.S.C. 8131-8137).
3. Space and office facilities for representatives of recognized national organizations (38 U.S.C. 5902(a)(2)).
4. All-volunteer force educational assistance, vocational rehabilitation, post-Vietnam era veterans' educational assistance, survivors' and dependents' educational assistance, and administration of educational benefits (38 U.S.C. Chapters 30, 31, 32, 34, 35 and 36, respectively).
5. Sharing of medical facilities, equipment, and information (38 U.S.C. 8151-8157).
6. Approval of educational institutions (38 U.S.C. 104).
7. Space and office facilities for representatives of State employment services (38 U.S.C. 7725(1)).
8. Medical care for survivors and dependents of certain veterans (38 U.S.C. 1713).
9. Transfers for nursing home care; adult day health care (38 U.S.C. 1720).
10. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities (38 U.S.C. 1720A).
11. Aid to States for establishment, expansion, and improvement of veterans cemeteries (38 U.S.C. 2408).
12. Assistance in establishing new medical schools; grants to affiliated medical schools; assistance to health manpower training institutions (38 U.S.C. Chapter 82).
13. Department of Veterans Affairs health professional scholarship program (38 U.S.C. 7601-7655).
14. Emergency veterans job training (Pub. L. 98-77, 97 Stat. 443-452).

[51 FR 10385, Mar. 26, 1986]

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**APPENDIX B TO SUBPART A OF PART 18—
ILLUSTRATIVE APPLICATIONS**

The following examples, without being exhaustive, will illustrate the application of the nondiscrimination provisions to certain grants of the Department of Veterans Affairs. (In all cases the discrimination prohibited is discrimination on the grounds of race, color, or national origin prohibited by title VI of the Act and this part, as a condition of the receipt of Federal financial assistance.)

(a) In grants which support the provision of health or welfare services for veterans in State homes, discrimination in the selection or eligibility of individuals to receive the services, and segregation or other discriminatory practices in the manner of providing them, are prohibited. This prohibition extends to all facilities and services provided by the State as grantee under the program or by a political subdivision of the State. It extends also to services purchased or otherwise obtained by the grantee (or political subdivision) from hospitals, nursing homes, schools, and similar institutions for beneficiaries of the program, and to the facilities in which such services are provided, subject, however, to the provisions of §18.3(c).

(b) In grants to assist in the construction of facilities for the provision of health or welfare services assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be prohibited as a condition of Federal operating grants for the support of such services. Thus, as a condition of grants for the construction of a State home for furnishing nursing home care, assurances will be required that there will be no discrimination in the admission or treatment of patients. In the case of such grants the assurance will apply to patients, to interns, residents, student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the nursing home, and will apply to the entire facility for which, or for a part of which, the grant is made, and to facilities operated in connection therewith.

(c) Upon transfers of real or personal surplus property for health or educational uses, discrimination is prohibited to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes.

(d) A recipient may not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly. Thus a State, in selecting or approving projects or sites for the construction of a nursing home which will receive Federal financial assistance, may not base its selections or approvals on criteria which have the effect of defeating or of substantially impairing accomplishment of the objectives of the Federal assistance program with respect to

individuals of a particular race, color, or national origin.

(38 U.S.C. 1741, 1744, 8131-8137, 8155, 5902(a)(2), Chapters 31, 34, 35 and 36)

[38 FR 17968, July 5, 1973. Designated subpart A at 45 FR 63268, Sept. 24, 1980]

Subparts B-C [Reserved]

**Subpart D—Nondiscrimination on
the Basis of Handicap**

AUTHORITY: 29 U.S.C. 706, 794.

SOURCE: 45 FR 63268, Sept. 24, 1980, unless otherwise noted.

GENERAL PROVISIONS

§ 18.401 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 18.402 Application.

This part applies to each recipient of Federal financial assistance from the Department of Veterans Affairs and to each program or activity that receives such assistance.

[45 FR 63268, Sept. 24, 1980, as amended at 68 FR 51370, Aug. 26, 2003]

§ 18.403 Definitions.

As used in this part, the term:

(a) *The Act* means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, and Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95-602, 29 U.S.C. 794.

(b) *Section 504* means section 504 of the Act.

(c) *Education of the Handicapped Act* means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 *et seq.*

(d) *Agency* means the Department of Veterans Affairs.

(e) *Secretary* means the Secretary of Veterans Affairs.