

24. *Public education in energy.* Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public Law 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Public Law 93-409, Section 12(a); Public Law 94-163, Section 337; Public Law 93-577, Section 4(d); Public Law 93-275, Section 5; Public Law 95-39, Title V, Section 502(7); Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95-91.

25. *Special studies and projects in energy education and training.* Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public Law 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Public Law 93-409, Section 12(a); Public Law 93-163, Section 337; Public Law 93-577, Section 4(d); Public Law 93-275, Section 5; Public Law 95-39, Title V, Section 502(7).

26. *Research and development in biomedical and environmental sciences.* Atomic Energy Act of 1954, as amended, Section 31; Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95-91.

27. *Preface (Pre-Freshman and Cooperative Education for Minorities In Engineering).* Atomic Energy Act of 1954, as amended, Sections 31(a) and 31(b); Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107 of the Energy Reorganization Act of 1974; Public Law 93-458; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act, Public Law 95-91, Sections 102 and 203; Public Law 93-409, Section 12(a); Public Law 94-163, Section 337; Public Law 93-577, Section 4(d); Public Law 93-275, Section 5; Public Law 95-39, Title V, Section 502(7).

28. *Materials allocation.* Section 104, Energy Policy and Conservation Act (EPCA), Section 101(c) Defense Production Act of 1950, as amended (DPA), 50 U.S.C. 2071(c), Section 7, Executive Order 11912, April 13, 1976. Defense Mobilization Order No. 13, September 22, 1976, 41 FR 43720; Department of Commerce, Bureau of Domestic Commerce, Delegation 4, 41 FR 52331, MA Regulations 10 CFR 216; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95-91.

29. *Basic energy sciences, high energy and nuclear physics, and advanced technology and assessment projects.* Atomic Energy Act of 1954, as amended, Section 31; Public Law 83-703; 68 Stat. 919; 42 U.S.C. 2051; and Title I, Section 107, of the Energy Reorganization Act of 1974; Public Law 93-438; 88 Stat. 1240; 42 U.S.C. 5817; Department of Energy Organization Act; 42 U.S.C. 7101; Public Law 95-91.

30. *Energy Extension Service.* National Energy Extension Service Act; Title V, Public

Law 95-39; Department of Energy Organization Act, 42 U.S.C. 7101; Public Law 95-91.

## PART 1041—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF ENERGY

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AUTHORITY: 29 U.S.C. 794.

SOURCE: 51 FR 4574, Feb. 5, 1986, unless otherwise noted. Redesignated at 52 FR 1902, Jan. 16, 1987.

### § 1041.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### § 1041.102 Application.

This part applies to all programs or activities conducted by the agency.

### § 1041.103 Definitions.

For purposes of this part, the term—*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*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 agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices 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 (TDD's), 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 agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall 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 shall 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.

*Handicapped person* 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 of 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, and drug addition 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.

(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 agency 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 such impairment; or

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

*Qualified handicapped person* means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person 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 agency can demonstrate would result in a fundamental alteration in its nature; or

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(3) *Qualified handicapped person* is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by §1041.140.

**§§ 1041.104–1041.109**

*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), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

[51 FR 4574, Feb. 5, 1986; 51 FR 7543, Mar. 5, 1986. Redesignated at 52 FR 1902, Jan. 16, 1987]

**§§ 1041.104–1041.109 [Reserved]**

**§ 1041.110 Self-evaluation.**

(a) The agency shall, by April 9, 1987, 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 such policies and practices is required, the agency shall proceed to make the necessary modifications.

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

(c) The agency shall, until three years following the completion of the self-evaluation, maintain on file and make available for public inspections:

- (1) A description of areas examined and any problems identified, and
- (2) A description of any modifications made.

**§ 1041.111 Notice.**

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

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**§§ 1041.112–1041.129 [Reserved]**

**§ 1041.130 General prohibitions against discrimination.**

(a) No qualified handicapped person 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 agency.

(b)(1) The agency, 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 handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of