

### § 34.5

### 29 CFR Subtitle A (7-1-06 Edition)

provided under the JTPA-funded program or activity;

(6) Deny or limit an individual with respect to any opportunity to participate in the JTPA-funded program or activity, or afford him or her an opportunity to do so which is different from that afforded others under the JTPA-funded program or activity;

(7) Deny an individual the opportunity to participate as a member of a planning or advisory body which is an integral part of the JTPA-funded program or activity;

(8) Aid or perpetuate discrimination by providing significant assistance to an agency, organization, or person that discriminates on a prohibited ground in providing any service, financial aid, or benefit to applicants or participants in the JTPA-funded program or activity;

(9) Refuse to accommodate a person's religious practices or beliefs, unless to do so would result in undue hardship; or

(10) Otherwise limit on a prohibited ground an individual in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

(b) In determining the types of services, financial aid or other benefits or facilities that will be provided under any JTPA-funded program or activity, or the class of individuals to whom or the situations in which such services, financial aid, or other benefits or facilities will be provided, a recipient shall not use, directly or through contractual, licensing, or other arrangements, standards, procedures or criteria that have the purpose or effect of subjecting individuals to discrimination on a prohibited ground or that have the purpose or effect of defeating or substantially impairing, on a prohibited ground, accomplishment of the objectives of the JTPA-funded program or activity. This paragraph applies to the administration of JTPA-funded programs or activities providing services, financial aid, benefits or facilities in any manner, including, but not limited to, recruitment, registration, counseling, testing, guidance, selection, placement, appointment, training, referral, promotion and retention.

(c) In determining the site or location of facilities, a grant applicant or

recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on a prohibited ground, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program, or the nondiscrimination and equal opportunity provisions of JTPA or this part.

(d) The exclusion of an individual from programs or activities limited by Federal statute or Executive Order to a certain class or classes of individuals of which the individual in question is not a member is not prohibited by this part.

#### **§ 34.5 Specific discriminatory actions prohibited on the ground of disability.**

(a) In providing any aid, benefit, service or training under a JTPA-funded program or activity, a recipient shall not, directly or through contractual, licensing, or other arrangements, on the ground of disability:

(1) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, service or training;

(2) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, service or training that is not equal to that afforded others;

(3) Provide a qualified individual with a disability with an aid, benefit, service or training 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;

(4) Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services or training that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis

of disability in providing any aid, benefit, service or training to participants;

(6) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards;

(7) Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service or training.

(b) A recipient may not deny a qualified individual with a disability the opportunity to participate in JTPA-funded programs or activities despite the existence of permissibly separate or different programs or activities.

(c) A recipient shall administer JTPA-funded programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(d) A recipient may not, directly or through contractual or other arrangements, utilize criteria or administrative methods:

(1) That have the effect of subjecting qualified individuals with disabilities to discrimination on the ground of disability;

(2) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the JTPA-funded program or activity with respect to individuals with disabilities; or

(3) That perpetuate the discrimination of another entity if both entities are subject to common administrative control or are agencies of the same state.

(e) In determining the site or location of facilities, a grant applicant or recipient may not make selections with the purpose or effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any JTPA-funded program or activity, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the JTPA-funded program or activity or this part with respect to individuals with disabilities.

(f) As used in this section, references to the aid, benefit, service or training provided under a JTPA-funded program

or activity include any aid, benefit, service or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise acquired, in whole or in part, with Federal financial assistance under JTPA.

(g) The exclusion of an individual without a disability from the benefits of a program limited by Federal statute or Executive Order to individuals with disabilities or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive Order to a different class of individuals with disabilities is not prohibited by this part.

(h) This part does not require a recipient to provide to individuals with disabilities: personal devices, such as wheelchairs; individually prescribed devices, such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing.

#### **§ 34.6 Communications with individuals with disabilities.**

(a) Recipients shall take appropriate steps to ensure that communications with beneficiaries, applicants, eligible applicants, participants, applicants for employment, employees and members of the public who are individuals with disabilities, are as effective as communications with others.

(b) A recipient shall furnish appropriate auxiliary aids or services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the JTPA-funded program or activity. In determining what type of auxiliary aid or service is necessary, such recipient shall give primary consideration to the requests of the individual with a disability.

(c) Where a recipient communicates with beneficiaries, applicants, eligible applicants, participants, applicants for employment and employees by telephone, telecommunications devices for individuals with hearing impairments (TDDs), or equally effective communications systems shall be used.

(d) A recipient shall ensure that interested persons, including persons with visual or hearing impairments,