

Section 104.52(c), also a new provision, requires recipients with fifteen or more employees to provide appropriate auxiliary aids for persons with impaired sensory, manual, or speaking skills. Further, the Assistant Secretary may require a small provider to furnish auxiliary aids where the provision of aids would not adversely affect the ability of the recipient to provide its health benefits or service.

37. *Treatment of Drug Addicts and Alcoholics.* Section 104.53 is a new section that prohibits discrimination in the treatment and admission of drug and alcohol addicts to hospitals and outpatient facilities. Section 104.53 prohibits discrimination against drug abusers by operators of outpatient facilities, despite the fact that section 407 pertains only to hospitals, because of the broader application of section 504. This provision does not mean that all hospitals and outpatient facilities must treat drug addiction and alcoholism. It simply means, for example, that a cancer clinic may not refuse to treat cancer patients simply because they are also alcoholics.

38. *Education of institutionalized persons.* The regulation retains §104.54 of the proposed regulation that requires that an appropriate education be provided to qualified handicapped persons who are confined to residential institutions or day care centers.

SUBPART G—PROCEDURES

In §104.61, the Secretary has adopted the title VI complaint and enforcement procedures for use in implementing section 504 until such time as they are superseded by the issuance of a consolidated procedural regulation applicable to all of the civil rights statutes and executive orders administered by the Department.

[45 FR 30936, May 9, 1980, as amended at 55 FR 52141, Dec. 19, 1990]

APPENDIX B TO PART 104—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS

EDITORIAL NOTE: For the text of these guidelines, see 34 CFR part 100, appendix B.

PART 105—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF EDUCATION

Sec.

- 105.1 Purpose.
- 105.2 Application.
- 105.3 Definitions.
- 105.4–105.9 [Reserved]
- 105.10 Self-evaluation.
- 105.11 Notice.
- 105.12–105.19 [Reserved]
- 105.20 General prohibitions against discrimination.
- 105.21–105.29 [Reserved]
- 105.30 Employment.
- 105.31 Program accessibility: Discrimination prohibited.
- 105.32 Program accessibility: Existing facilities.
- 105.33 Program accessibility: New construction and alterations.
- 105.34–105.39 [Reserved]
- 105.40 Communications.
- 105.41 Compliance procedures.
- 105.42 Effective date.

AUTHORITY: 29 U.S.C. 794, unless otherwise noted.

SOURCE: 55 FR 37168, Sept. 7, 1990, unless otherwise noted.

§ 105.1 Purpose.

The purpose of this part is to effectuate 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.

§ 105.2 Application.

This part applies to all programs or activities conducted by the Department, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 105.3 Definitions.

For purposes of this part, the following definitions apply:

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking