

**§§ 83.16–83.19**

would be prohibited by this part. Such procedures shall be in writing and available to all present and prospective students and employees.

**§§ 83.16–83.19 [Reserved]**

**Subpart C—Procedures [Interim]**

**§ 83.20 Interim procedures.**

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to sections 704 and 845 of the Act and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR 80.6 through 80.11 and 45 CFR Part 81.

**PART 84—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

**Subpart A—General Provisions**

- Sec.
- 84.1 Purpose.
- 84.2 Application.
- 84.3 Definitions.
- 84.4 Discrimination prohibited.
- 84.5 Assurances required.
- 84.6 Remedial action, voluntary action, and self-evaluation.
- 84.7 Designation of responsible employee and adoption of grievance procedures.
- 84.8 Notice.
- 84.9 Administrative requirements for small recipients.
- 84.10 Effect of State or local law or other requirements and effect of employment opportunities.

**Subpart B—Employment Practices**

- 84.11 Discrimination prohibited.
- 84.12 Reasonable accommodation.
- 84.13 Employment criteria.
- 84.14 Preemployment inquiries.
- 84.15–84.20 [Reserved]

**Subpart C—Accessibility**

- 84.21 Discrimination prohibited.
- 84.22 Existing facilities.
- 84.23 New construction.

**45 CFR Subtitle A (10–1–06 Edition)**

84.24–84.30 [Reserved]

**Subpart D—Preschool, Elementary, and Secondary Education**

- 84.31 Application of this subpart.
- 84.32 Location and notification.
- 84.33 Free appropriate public education.
- 84.34 Educational setting.
- 84.35 Evaluation and placement.
- 84.36 Procedural safeguards.
- 84.37 Nonacademic services.
- 84.38 Preschool and adult education.
- 84.39 Private education.
- 84.40 [Reserved]

**Subpart E—Postsecondary Education**

- 84.41 Application of this subpart.
- 84.42 Admissions and recruitment.
- 84.43 Treatment of students; general.
- 84.44 Academic adjustments.
- 84.45 Housing.
- 84.46 Financial and employment assistance to students.
- 84.47 Nonacademic services.
- 84.48–84.50 [Reserved]

**Subpart F—Health, Welfare, and Social Services**

- 84.51 Application of this subpart.
- 84.52 Health, welfare, and other social services.
- 84.53 Drug and alcohol addicts.
- 84.54 Education of institutionalized persons.
- 84.55 Procedures relating to health care for handicapped infants.
- 84.56–84.60 [Reserved]

**Subpart G—Procedures**

- 84.61 Procedures.
- APPENDIX A TO PART 84—ANALYSIS OF FINAL REGULATION
- APPENDIX B TO PART 84—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS [NOTE]
- APPENDIX C TO PART 84—GUIDELINES RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS
- AUTHORITY: 20 U.S.C. 1405; 29 U.S.C. 794; 42 U.S.C. 290dd–2; 21 U.S.C. 1174.
- SOURCE: 42 FR 22677, May 4, 1977, unless otherwise noted.

**Subpart A—General Provisions**

**§ 84.1 Purpose.**

The purpose of this part is to effectuate section 504 of the Rehabilitation

## Department of Health and Human Services

## § 84.3

Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

### § 84.2 Application.

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

[42 FR 22677, May 4, 1977, as amended at 70 FR 24319, May 9, 2005]

### § 84.3 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, 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) *Department* means the Department of Health and Human Services.

(e) *Director* means the Director of the Office for Civil Rights of the Department.

(f) *Recipient* means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) *Applicant for assistance* means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(h) *Federal financial assistance* means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) *Handicapped person*. (1) *Handicapped persons* means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section, the phrase:

(i) *Physical or mental impairment* means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) *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.

(iv) *Is regarded as having an impairment* means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that