

§ 15.10

6 CFR Ch. I (1-1-07 Edition)

(e) *Qualified individual with a disability* means:

(1) With respect to a Department program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability 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 Department can demonstrate would result in a fundamental alteration in the nature of the program; and

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

(3) With respect to employment, an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

(f) *Section 504* means section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended. As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§ 15.10 Self-evaluation.

(a) Except as provided in paragraph (d) of this section, the Department shall, not later than March 7, 2005, evaluate its current policies and practices, and the effects thereof, to determine if they meet the requirements of this part. To the extent modification of any such policy and practice is required, the Department shall proceed to make the necessary modifications.

(b) The Department shall provide an opportunity to interested persons, including individuals with a disability or organizations representing individuals with disabilities, to participate in the self-evaluation process.

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

(1) A description of areas examined and any problems identified;

(2) A description of any modifications made; and

(3) A list of participants in the self-evaluation process.

(d) If a component within the Department has already complied with the self-evaluation requirement of a regulation implementing section 504, then the requirements of this section shall apply to only those programs and activities conducted by that component that were not included in the previous self-evaluation.

§ 15.11 Notice.

The Department shall make available to all Department employees and interested persons information regarding the provisions of this part and its applicability to the programs or activities conducted by the Department, and make such information available to them in such a manner as is necessary to apprise them of the protections against discrimination assured them by section 504 and this part.

§ 15.30 General prohibitions against discrimination.

(a) No qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from the participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Department.

(b)(1) The Department, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of disability:

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

(ii) Afford a qualified individual with a disability 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 individual with a disability 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 individuals with a disability or to any class of individuals with a disability than is provided to others unless such action is necessary to provide qualified individuals with a disability with aid, benefits or services that are as effective as those provided to others;

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

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

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for individuals with a disability and for nondisabled persons, but must afford individuals with a disability equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the individual's needs.

(3) Even if the Department is permitted, under paragraph (b)(1)(iv) of this section, to operate a separate or different program for individuals with a disability or for any class of individuals with a disability, the Department must permit any qualified individual with a disability who wishes to participate in the program that is not separate or different to do so.

(4) The Department may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would:

(i) Subject qualified individuals with a disability to discrimination on the basis of disability; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with a disability.

(5) The Department may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(i) Exclude individuals with a disability from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Department; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with a disability.

(6) The Department, in the selection of procurement contractors, may not use criteria that subject qualified individuals with a disability to discrimination on the basis of disability.

(7) The Department may not administer a licensing or certification program in a manner that subjects qualified individuals with a disability to discrimination on the basis of disability, nor may the Department establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with a disability to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Department are not, themselves, covered by this part.

(c) The exclusion of nondisabled persons from the benefits of a program limited by Federal statute or Executive order to individuals with a disability or the exclusion of a specific class of individuals with a disability from a program limited by Federal statute or Executive order to a different class of individuals with a disability is not prohibited by this part.

(d) The Department shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with a disability.

§ 15.40 Employment.

No qualified individual with a disability shall, on the basis of that disability, be subjected to discrimination in employment under any program or activity conducted by the Department. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1614, shall apply to employment of Federally conducted programs or activities.