

§ 1252.300

the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provision of § 1252.10.

[50 FR 13311, Apr. 4, 1985, as amended at 68 FR 51352, Aug. 26, 2003]

Subpart 1252.3—Responsibilities of Recipients

§ 1252.300 General responsibilities of recipients.

Each NASA recipient must ensure that its programs or activities comply with these regulations.

[50 FR 13311, Apr. 4, 1985, as amended at 68 FR 51352, Aug. 26, 2003]

§ 1252.301 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from NASA to subrecipients, the recipient shall provide the subrecipient written notice of their obligations under these regulations.

§ 1252.302 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from NASA shall sign a written assurance as specified by NASA that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under § 91.41, NASA may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation, in a manner specified by the responsible Agency official, of any age distinction imposed in its program or activity receiving Federal financial assistance from NASA to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act and the NASA regulations, the recipient shall take corrective action.

§ 1252.303 Information requirements.

(a) Keep records in a form that contains information which NASA determines may be necessary to ascertain whether the recipient is complying with the Act and these regulations.

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(b) Provide to NASA, upon request, information and reports which NASA determines are necessary to ascertain whether the recipient is complying with the Act and these regulations.

(c) Permit reasonable access by NASA to the books, records, accounts, and other recipient facilities and sources of information to the extent NASA determines is necessary to ascertain whether the recipient is complying with the Act and these regulations.

Subpart 1252.4—Investigation, Conciliation, and Enforcement Procedures

§ 1252.400 Compliance reviews.

(a) NASA may conduct compliance reviews and pre-award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. NASA may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, NASA will attempt to secure the recipient's voluntary compliance with the Act. If voluntary compliance cannot be achieved, NASA will arrange for enforcement as described in § 1252.405.

§ 1252.401 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with NASA, alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979. A complaint must be filed within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, NASA may extend this time limit.

(b) NASA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement, which identifies the parties involved and the

date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and assigned by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact NASA for information and assistance regarding the complaint resolution process.

(c) NASA will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 1252.402 Mediation.

(a) Referral of complaints for mediation. NASA will refer to the Federal Mediation and Conciliation Service all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before NASA will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to NASA. NASA will take no further action on the complaint unless the complainant or the recipient fails to com-

ply with the agreement. However, NASA retains the right to monitor the recipient's compliance with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) NASA will use the mediation process for a maximum of 60 days after receiving a complaint.

(f) Mediation ends if:

(1) 60 days elapse from the time NASA receives the complaint; or

(2) Prior to the end of that 60-day period, an agreement is reached; or

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(g) The mediator shall return unresolved complaints to NASA.

§ 1252.403 Investigation.

(a) *Informal inquiry.* (1) NASA will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial inquiry, NASA will use informal fact finding methods, including joint or separate discussions with the complainant and recipient to establish the facts, and, if possible, settle the complaint on terms that are mutually agreeable to the parties. NASA may seek the assistance of any involved State agency.

(3) NASA will put any agreement in writing and have it signed by the parties and an authorized official at NASA.

(4) The settlement shall not affect the operation of any other enforcement effort of NASA, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If NASA cannot resolve the complaint through informal means it will develop formal findings through further investigations