

#### 8.4

##### Discrimination prohibited.

(a) No qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department.

(b) (1) A recipient, in providing any housing, aid, benefit, or service in a program or activity that receives Federal financial assistance from the Department may not, directly or through contractual, licensing, or other arrangements, solely on the basis of handicap:

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

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

(iii) Provide a qualified individual with handicaps with any housing, aid, benefit, or service that is not as effective in affording the individual an 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 housing, aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps from that provided to others unless such action is necessary to provide qualified individuals with handicaps with housing, aid, benefits, or services that are as effective as those provided to others.

(v) Aid or perpetuate discrimination against a qualified individual with handicaps by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any housing, aid, benefit, or service to beneficiaries in the recipient's federally assisted program or activity;

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

(vii) Deny a dwelling to an otherwise qualified buyer or renter because of a handicap of that buyer or renter or a person residing in or intending and eligible to reside in that dwelling after it is sold, rented or made available; or

(viii) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other qualified individuals receiving the housing, aid, benefit, or service.

(2) For purposes of this part, housing, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for individuals with handicaps and non-handicapped persons, but must afford individuals with handicaps equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement.

(3) A recipient may not deny a qualified individual with handicaps the opportunity to participate in any federally assisted program or activity that is not separate or different despite the existence of permissibly separate or different programs or activities.

(4) In any program or activity receiving Federal financial

assistance from the Department, a recipient 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 handicaps to discrimination solely on the basis of handicap;

(ii) Defeat or substantially impair the accomplishment of the objectives of the recipient's federally assisted program or activity for

qualified individuals with a particular handicap involved in the program

or activity, unless the recipient can demonstrate that the criteria or methods of administration are manifestly related to the accomplishment of an objective of a program or activity; or

(iii) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a federally assisted facility, an applicant for assistance or a recipient may not make selections the purpose or effect of which would:

(i) Exclude qualified individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from the Department, or

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

(6) As used in this section, the housing, aid, benefit, or service provided under a program or activity receiving Federal financial assistance includes any housing, aid, benefit, or service provided in or

through a facility that has been constructed, altered, leased or rented,

or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) (1) Non-handicapped persons may be excluded from the benefits of a program if the program is limited by Federal statute or executive order to individuals with handicaps. A specific class of individuals with handicaps may be excluded from a program if the program is limited by Federal statute or Executive order to a different class of individuals.

(2) Certain Department programs operate under statutory definitions of handicapped person that are more restrictive than the definition of individual with handicaps contained in Sec. 8.3 (see appendix B). Those definitions are not superseded or otherwise affected by this regulation.

(d) Recipients shall administer programs and activities receiving Federal financial assistance in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

(e) The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement that, based on

handicap, imposes inconsistent or contradictory prohibitions or limits upon the eligibility of qualified individuals with handicaps to receive services or to practice any occupation or profession.

(f) The enumeration of specific forms of prohibited discrimination

in paragraphs (b) through (e) of this section does not limit the  
general  
prohibition in paragraph (a) of this section.

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