

g. Protections of forest resources from insects, pests and diseases, Forest Pest Control Act of June 25, 1947, 16 U.S.C. 594-1-5.

Research programs of the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Advance of funds for cooperative research, Section 20 of Granger-Thye Act of April 24, 1950, added April 6, 1956, 16 U.S.C. 5811-1.

b. Grants for support of scientific research, Act of September 6, 1958, 42 U.S.C. 1891-1893.

c. Research cooperation, McSweeney-McNary Act of May 22, 1928, as amended, 16 U.S.C. 581 et seq.

[F.R. Doc. 64-12534; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Administrator, Housing and Home Finance Agency

PART 1—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE HOUSING AND HOME FINANCE AGENCY—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of Title 24 CFR is hereby amended by adding the following new Part 1:

- Sec.
- 1.1 Purpose.
 - 1.2 Definitions.
 - 1.3 Application of Part 1.
 - 1.4 Discrimination prohibited.
 - 1.5 Assurances required.
 - 1.6 Compliance information.
 - 1.7 Conduct of investigations.
 - 1.8 Procedure for effecting compliance.
 - 1.9 Hearings.
 - 1.10 Decisions and notices.
 - 1.11 Judicial review.
 - 1.12 Effect on other regulations; forms and instructions.

AUTHORITY: The provisions of this Part 1 are issued under sec. 602 of the Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; sec. 502(a) of the Housing Act of 1948, 12 U.S.C. 1701c; and the laws listed in Appendix A to this Part 1.

§ 1.1 Purpose.

The purpose of this Part 1 is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Housing and Home Finance Agency.

§ 1.2 Definitions.

As used in this Part 1—

(a) The term "Agency" means the Housing and Home Finance Agency.

(b) The term "Administrator" means the Housing and Home Finance Administrator.

(c) The term "responsible Agency official" with respect to any program or activity receiving Federal financial as-

sistance means the Administrator or other official of the Agency who by law or by delegation has the principal responsibility within the Agency for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants, loans, and advances of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. The term "Federal financial assistance" does not include a contract of insurance or guaranty.

(f) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program or activity, or who otherwise participates in carrying out such program or activity (such as a redeveloper in the Urban Renewal Program), including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program or activity.

(g) The term "applicant" means one who submits an application, contract, request, or plan requiring Agency approval as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, contract, request, or plan.

§ 1.3 Application of Part 1.

This Part 1 applies to any program or activity for which Federal financial assistance is authorized under a law administered by the Agency, including any program or activity assisted under the Agency programs listed in Appendix A of this Part 1. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program or activity after the effective date of this Part 1 pursuant to an application approved prior to such effective date. This Part 1 does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program or activity before the effective date of this Part 1, (3) any assistance to

any person who is the ultimate beneficiary under any such program or activity, or (4) any employment practice, under any such program or activity, of any employer, employment agency, or labor organization, except to the extent described in § 1.4(c). The fact that a program or activity is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program or activity is not covered. Other programs or activities under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 1.4 Discrimination prohibited.

(a) **General.** No person in the United States, shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity to which this Part 1 applies.

(b) **Specific discriminatory actions prohibited.** (1) A recipient under any program or activity to which this Part 1 applies, may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(ii) Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program or activity;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(iv) Restrict a person in any way in access to such housing, accommodations, facilities, services, financial aid, or other benefits, or in the enjoyment of any advantage or privilege enjoyed by others in connection with such housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(v) Treat a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(vi) Deny a person opportunity to participate in the program or activity through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program or activity (including the opportunity to participate in the program or activity as an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the location or types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of persons to whom, or the situations in which, such housing, ac-

commodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect persons of a particular race, color, or national origin.

(3) As used in this Part 1 the housing, accommodations, facilities, services, financial aid, or other benefits provided under a program or activity receiving Federal financial assistance shall be deemed to include any housing, accommodations, facilities, services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in paragraphs (b) and (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program or activity to which this Part 1 applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program or activity (including recruitment or recruitment advertising, employment, lay-off, or termination, up-grading, demotion, or transfer, rates of pay or other forms of compensation and use of facilities). The requirements applicable to construction employment under such program or activity shall be those specified in or pursuant to Executive Order 11114 (28 F.R. 6485).

(d) *Exception.* A person shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program or activity limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 1.5 Assurances required.

(a) *General.* Every contract for Federal financial assistance to carry out a program or activity to which this Part 1 applies, executed on or after the effective date of this Part 1, and every application for such Federal financial assistance submitted on or after such effective date, shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to such contract or application, contain or be accompanied by an assurance that the program or activity will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this Part 1. In the case of a contract or application for Federal financial assistance to provide real property or structures

thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the contract or application. The responsible Agency official shall specify the form of the foregoing assurance for such program or activity, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Pre-existing contracts—funds not disbursed.* In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to the effective date of this Part 1, and the funds have not been fully disbursed by the Agency, the responsible Agency official shall, where necessary to effectuate the purposes of this Part 1, require an assurance similar to that provided in paragraph (a) of this section as a condition to the disbursement of further funds.

(c) *Pre-existing contracts—periodic payments.* In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to the effective date of this Part 1, and provides for periodic payments for the continuation of the program or activity, the recipient shall, in connection with the first application for such periodic payments on or after the effective date of this Part 1, (1) submit a statement that the program or activity is being conducted in compliance with all requirements imposed by or pursuant to this Part 1, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (2) provide such methods of administration for the program or activity as are found by the responsible Agency official to give reasonable assurance that the recipient will comply with all requirements imposed by or pursuant to this Part 1, or reasonable assurance that any noncompliance indicated in the statement under clause (1) will be corrected.

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to

admission or other treatment of persons as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such persons, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Agency official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 1.6 Compliance information.

(a) *Cooperation and assistance.* Each responsible Agency official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Part 1 and shall provide assistance and guidance to recipients to help them comply voluntarily with this Part 1.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Agency official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Agency official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Part 1.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Agency official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this Part 1. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Part 1 and its applicability to the program or activity under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Agency official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this Part 1.

§ 1.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Agency official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this Part 1.

(b) *Complaints.* Any person who believes himself or any specific class of

persons to be subjected to discrimination prohibited by this Part 1 may by himself or by a representative file with the responsible Agency official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Agency official or his designee.

(c) *Investigations.* The responsible Agency official or his designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Part 1. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this Part 1 occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this Part 1.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this Part 1, the responsible Agency official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1.8.

(2) If an investigation does not warrant action pursuant to paragraph (d) (1) of this section the responsible Agency official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Act of this Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this Part 1, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this Part 1 may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1.5.* If an applicant fails or refuses to furnish an assurance required under § 1.5 or otherwise fails or refuses to comply with the requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Agency shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Agency shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to the effective date of this Part 1.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Agency official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Part 1, (3) the action has been approved by the Administrator, and (4) the expiration of 30 days after the Administrator has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Agency official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Administrator, (3) the applicant or recipient has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least ten days from the mailing of such notice to the applicant or recipient. During this period of at least ten days additional efforts shall be made to persuade the applicant or recipient to comply with this Part 1 and to take such corrective action as may be appropriate.

§ 1.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be

taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Agency official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph (a) or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1.8(c) of this Part 1 and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Agency in Washington, D.C., at a time fixed by the responsible Agency official unless he determines that the convenience of the applicant or recipient or of the Agency requires that another place be selected. Hearings shall be held before the responsible Agency official or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Agency shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure issued by the Agency as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Agency and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part 1, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Agency and the applicant or recipient, and opportunity shall be given to refute facts and argu-

ments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts with respect to two or more programs or activities to which this Part 1 applies are asserted to constitute non-compliance with this Part 1 or noncompliance with this Part 1 and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Administrator may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this Part 1. Final decisions in such cases, insofar as this Part 1 is concerned, shall be made in accordance with § 1.10.

§ 1.10 Decisions and notices.

(a) *Decision by person other than the responsible Agency official.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Agency official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Agency official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Agency official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Agency official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Agency official.

(b) *Decisions on record or review by the responsible Agency official.* Whenever a record is certified to the responsible Agency official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Agency official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of his contentions, and a copy of the final decision of the responsible Agency official shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1.9(a) a decision

shall be made by the responsible Agency official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(d) *Rulings required.* Each decision of a hearing examiner or responsible Agency official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Part 1 with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program or activity involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this Part 1, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program or activity to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this Part 1, or to have otherwise failed to comply with this Part 1, unless and until it corrects its noncompliance and satisfies the responsible Agency official that it will fully comply with this Part 1.

§ 1.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Agency which impose requirements designed to prohibit any discrimination against persons on the ground of race, color, or national origin under any program or activity to which this Part 1 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant or recipient of such assistance under such program or activity for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this Part 1, except that nothing in this Part 1 shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this Part 1. Nothing in this Part 1, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such Order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or activity or situation to which this Part 1 is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Agency official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this Part 1 as applied to programs and activities to which this Part 1 applies and for which he is responsible.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of the Agency, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this Part 1 (other than responsibility for final decision as provided in § 1.10), including the achievement of effective coordination and maximum uniformity within the Agency and within the Executive Branch of the Government in the application of title VI and this Part 1 to similar programs or activities and in similar situations.

This Part 1 shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

ROBERT C. WEAVER,
Housing and Home
Finance Administrator.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS OF THE HOUSING AND HOME FINANCE AGENCY TO WHICH THIS PART 1 APPLIES

1. Community Disposition Program—Atomic Energy Community Act of 1955, §§ 11-13, 21, 31-36, 41-43, 51-57, 61-66, 101-103, 111-119, 69 Stat. 471 (1955), 42 U.S.C. 2301; E.O. 11105, 28 F.R. 3909.
2. Low-Income Housing Demonstration Grant Program—§ 207, Housing Act of 1961, 75 Stat. 165 (1961), 42 U.S.C. 1436.
3. Mass Transportation Demonstration Grant Program—§ 303, Housing Act of 1961, 75 Stat. 166 (1961), 42 U.S.C. 1453(b).
4. Rehabilitation Direct Loan Program—§ 312, Housing Act of 1964, 78 Stat. 790 (1964), P.L. 88-560.
5. Training and Fellowship Programs—Title VIII, Housing Act of 1964, 78 Stat. 769 (1964), P.L. 88-560.
6. Urban Mass Transportation Programs—Urban Mass Transportation Act of 1964, 78 Stat. 302 (1964), P.L. 88-365.
7. Low-Rent Public Housing Program—United States Housing Act of 1937, 50 Stat. 888 (1937), 42 U.S.C. 1401.
8. Open Space Land Program—Title VII, Housing Act of 1961, 75 Stat. 183 (1961), 42 U.S.C. 1500.
9. Urban Renewal Demonstration Grant Program—§ 314, Housing Act of 1954, 68 Stat. 629 (1954), 42 U.S.C. 1452a.
10. Urban Renewal Program (Slum Clearance and Urban Renewal)—Title I, Housing Act of 1949, 63 Stat. 414 (1949), 42 U.S.C. 1450.
11. College Housing Loan Program—Title IV, Housing Act of 1950, 64 Stat. 77 (1950), 42 U.S.C. 1749.
12. Community Facilities Administration Liquidation Programs.
13. Program of Advances for Public Works Planning—§ 702, Housing Act of 1954, 68 Stat. 641 (1954), 40 U.S.C. 462.
14. Public Facility Loans Program—Title II, Housing Amendments of 1955, 69 Stat. 642 (1955), 42 U.S.C. 1491.
15. Public Works Acceleration Act Program—Public Works Acceleration Act, 76 Stat. 541 (1962), 42 U.S.C. 2641.

16. Senior Citizens Housing Loan Program—§ 202, Housing Act of 1959, 73 Stat. 687 (1959), 12 U.S.C. 1701q.

[F.R. Doc. 64-12535; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 31—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF LABOR—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Pursuant to the authority and direction contained in section 602 of Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 78 Stat. 241), Title 29 of the Code of Federal Regulations is hereby amended by establishing a new Part 31 to read as set forth below.

The new 29 CFR Part 31 reads as follows:

- Sec.
- 31.1 Purpose.
- 31.2 Definitions.
- 31.3 General standards.
- 31.4 Employment service programs.
- 31.5 Manpower Development and Training Act, Area Redevelopment Act, Work-Training under Economic Opportunity Act and other government-sponsored training.
- 31.6 State and Federal unemployment insurance programs; allowances under Trade Readjustment Assistance Program, Manpower Development and Training Act, and Area Redevelopment Act.
- 31.7 Compliance information.
- 31.8 Conduct of investigations.
- 31.9 Procedure for effecting compliance.
- 31.10 Hearings.
- 31.11 Decisions and notices.
- 31.12 Judicial review.
- 31.13 Effect on other regulations; supervision and coordination.

AUTHORITY: The provisions of this Part 31 issued under sec. 602, 78 Stat. 252; 42 U.S.C. 501, 29 U.S.C. 49k, and 5 U.S.C. 22.

§ 31.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Labor.

§ 31.2 Definitions.

For purposes of this part—

(a) The term "Act" means the Civil Rights Act of 1964 (78 Stat. 241).

(b) The term "applicant" means one who submits an application, request, or plan required to be approved by the Secretary, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such application, request, or plan.

(c) The term "Department" means the Department of Labor and includes

each of its operating agencies and other organizational units.

(d) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(g) The term "program" includes any program, project or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "Secretary" means the Secretary of Labor or any person spe-

cifically designated by him to perform any function provided for under this part, except that only the Secretary personally or a hearing examiner shall conduct hearings under § 31.10 of this part.

(j) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

§ 31.3 General standards.

(a) *General.* No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance from the Department of Labor.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this regulation applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program, or

(vii) Deny an individual an opportunity to participate in a program as an employee where a primary objective of the Federal financial assistance is to provide employment.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of

race, color or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) As used in this section the services, financial aid, or other benefit provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a).

(c) The application of the foregoing standards to programs administered by this Department is set forth in §§ 31.4-31.6. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114. Nothing contained in those sections limits the general application of this § 31.3.

§ 31.4 Employment service programs.

In the administration of the Federal-State employment service program by a recipient of Federal financial assistance (as these terms are defined in § 31.2):

(a) The registration, counseling, testing, recruitment, selection and referral of individuals for job openings or training opportunities and all other activities performed by or through employment service offices financed in whole or in part from Federal funds, including the establishment and maintenance of physical facilities, shall be conducted without regard to race, color or national origin.

(b) No selection or referral of any individual for employment or training shall be made on the basis of any job order or request containing discriminatory specifications with regard to race, color or national origin.

§ 31.5 Manpower Development and Training Act, Area Redevelopment Act, Work-Training Under Economic Opportunity Act and other government-sponsored training.

In the administration of the Manpower Development and Training Act, the Area Redevelopment Act, Title I B of the Economic Opportunity Act, and any other training sponsored by the Department of Labor:

(a) Any contract, subcontract, agreement or arrangement with a recipient of Federal financial assistance which provides for the registration, counseling, testing, guidance, selection, referral or training of any individual including employment as an enrollee under Title I B of the Economic Opportunity Act shall contain an assurance and provide that such service shall be furnished without discrimination because of race, color or national origin and that violation shall constitute grounds for termination of the contract, subcontract, agreement or arrangement and shall include provisions which give the United States a right to seek its judicial enforcement.

(b) Any such contract, subcontract, agreement or arrangement providing for

training or employment with the contractor as a trainee or enrollee under the Manpower Development and Training Act, the Area Redevelopment Act, or the Economic Opportunity Act shall also contain an assurance and provide that the recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to any such trainee or enrollee while receiving training or employment thereunder, shall be without regard to race, color or national origin, and that violation shall constitute grounds for termination of the contract, subcontract, agreement or arrangement and shall include provisions which give the United States a right to seek its judicial enforcement.

§ 31.6 State and Federal Unemployment Insurance Programs; allowances under Trade Readjustment Assistance Program, Manpower Development and Training Act and Area Redevelopment Act.

In the administration of the Federal and State unemployment insurance programs, and in the payment of allowances under the Trade Expansion Act, the Manpower Development and Training Act and the Area Redevelopment Act by a recipient of Federal financial assistance:

(a) The filing for, adjudication and payment of benefits, establishment and maintenance of physical facilities and other application of the laws shall be without regard to race, color or national origin.

§ 31.7 Compliance information.

(a) *Cooperation and assistance.* The Secretary shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Secretary timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Secretary during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 31.8 Conduct of investigations.

(a) *Periodic compliance reviews.* The Secretary shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Secretary a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Secretary.

(c) *Investigations.* The Secretary will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) indicates a failure to comply with this part, the Secretary will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 31.9.

(2) If an investigation does not warrant action pursuant to subparagraph (1) the Secretary will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 31.9 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be

corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the Secretary has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary, and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(c) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the Secretary has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 31.10 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 31.9(b), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1)

fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Secretary that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 31.9(b) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the Secretary unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the Secretary or before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient, and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a), taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the

record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 31.11.

§ 31.11 Decisions and notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Secretary.

(b) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a), or whenever the Secretary conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Secretary shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 31.10(a) a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with

which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Secretary that it will fully comply with this part.

§ 31.12 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 31.13 Effect on other regulations; supervision and coordination.

(a) *Effect on other regulations.* All regulations, orders or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114, and regulations issued thereunder, (2) The "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education, and Welfare, and of Labor, 28 F.R. 734, or (3) any other regulation or instruction insofar as it prohibits discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibits discrimination on any other ground.

(b) *Supervision and coordination.* The Secretary may from time to time assign to officials of other departments or agencies of the government (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 31.11), including the achievement of effective coordination and maximum uniformity within the Department

and within the Executive branch of the Government in the application of Title VI and this part to similar programs and in similar situations.

Effective date. The regulations contained in this Part 31 shall become effective on the 30th day following the date of publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

W. WILLARD WIRTZ,
Secretary of Labor.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

[F.R. Doc. 64-12536; Filed, Dec. 3, 1964;
4:23 p.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM

Chapter 101—Federal Property Management Regulations

SUBCHAPTER A—GENERAL

PART 101-6—MISCELLANEOUS REGULATIONS

Subpart 101-6.2—Nondiscrimination in Federally-Assisted Programs of the General Services Administration—Effectuation of Title VI of the Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, each Federal department or agency which is empowered to extend Federal financial assistance to any program or activity is authorized and directed to issue regulations to effectuate the provisions of section 601 of the Act prohibiting discrimination under such programs or activities on the ground of race, color, or national origin. The following new Subpart 101-6.2, setting forth the regulations of the General Services Administration on this subject, is added to Part 101-6 of Subchapter A:

- Sec.
- 101-6.201 Scope of subpart.
- 101-6.202 Purpose.
- 101-6.203 Application of subpart.
- 101-6.204 Discrimination prohibited.
- 101-6.204-1 General.
- 101-6.204-2 Specific discriminatory actions prohibited.
- 101-6.204-3 Special programs.
- 101-6.205 Assurances required.
- 101-6.205-1 General.
- 101-6.205-2 Continuing State programs.
- 101-6.205-3 Elementary and secondary schools.
- 101-6.205-4 Applicability of assurances.
- 101-6.206 Illustrative applications.
- 101-6.207 Enforcement responsibility and information.
- 101-6.207-1 Agencies responsible.
- 101-6.207-2 Regulations applicable.
- 101-6.207-3 Agency instructions and reports.
- 101-6.208 Applicability of §§ 101-6.209 through 101-6.214.
- 101-6.209 Compliance information.
- 101-6.209-1 Cooperation and assistance.
- 101-6.209-2 Compliance reports.
- 101-6.209-3 Access to sources of information.
- 101-6.209-4 Information to beneficiaries and participants.
- 101-6.210 Conduct of investigations.
- 101-6.210-1 Periodic compliance reviews.

- Sec.
- 101-6.210-2 Complaints.
- 101-6.210-3 Investigations.
- 101-6.210-4 Resolution of matters.
- 101-6.210-5 Intimidatory or retaliatory acts prohibited.
- 101-6.211 Procedure for effecting compliance.
- 101-6.211-1 General.
- 101-6.211-2 Noncompliance with § 101-6.205.
- 101-6.211-3 Termination of or refusal to grant or to continue Federal financial assistance.
- 101-6.211-4 Other means authorized by law.
- 101-6.212 Hearings.
- 101-6.212-1 Opportunity for hearings.
- 101-6.212-2 Time and place of hearing.
- 101-6.212-3 Right to counsel.
- 101-6.212-4 Procedures, evidence, and record.
- 101-6.212-5 Consolidated or joint hearings.
- 101-6.213 Decisions and notices.
- 101-6.213-1 Decision by person other than the responsible GSA official.
- 101-6.213-2 Decisions on record or review by the responsible GSA official.
- 101-6.213-3 Decisions on record where a hearing is waived.
- 101-6.213-4 Rulings required.
- 101-6.213-5 Approval by Administrator.
- 101-6.213-6 Content of orders.
- 101-6.214 Judicial review.
- 101-6.215 Effect on other regulations; forms and instructions.
- 101-6.215-1 Effect on other regulations.
- 101-6.215-2 Forms and instructions.
- 101-6.215-3 Supervision and coordination.
- 101-6.216 Definitions.
- 101-6.217 Programs to which this Subpart 101-6.2 applies.

AUTHORITY: The provisions of this Subpart 101-6.2 issued under sec. 602, 78 Stat. 252; 42 U.S.C. 501.

§ 101-6.201 Scope of subpart.

This subpart provides the regulations of the General Services Administration (GSA) concerning nondiscrimination in Federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA.

§ 101-6.202 Purpose.

The purpose of this subpart is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from GSA.

§ 101-6.203 Application of subpart.

(a) Subject to paragraph (b) and (c) of this section, this subpart applies to any program for which Federal financial assistance is authorized under a law administered in whole or in part by GSA, including the Federally-assisted programs and activities listed in § 101-6.217. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this subpart pursuant to an application approved prior to such effective date. This subpart does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this subpart, except

to the extent otherwise provided by contract, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 101-6.204-2(d). The fact that a program or activity is not listed in § 101-6.217 shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

(b) The regulations issued by the Department of Health, Education, and Welfare pursuant to Title VI of the Act shall be applicable to the program involving the donation or transfer of surplus property for purposes of education or public health (§§ 101-6.217 (a) and (b)).

(c) The regulations issued by the Department of Defense pursuant to Title VI of the Act shall be applicable to the program involving the donation of surplus personal property for purposes of Civil Defense (§ 101-6.217(a)).

§ 101-6.204 Discrimination prohibited.

§ 101-6.204-1 General.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

§ 101-6.204-2 Specific discriminatory actions prohibited.

(a) (1) A recipient under any program to which this subpart applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) deny an individual any service, financial aid, or other benefit provided under the program;

(ii) provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program (in-

cluding the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (d) of this § 101-6.204-2).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(b) As used in this § 101-6.204-2 the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(c) The enumeration of specific forms of prohibited discrimination in this § 101-6.204-2 does not limit the generality of the prohibition in § 101-6.204-1.

(d) Where a primary objective of the Federal financial assistance to a program to which this Subpart 101-6.2 applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including, but not limited to, recruitment or recruitment advertising; employment; lay-off or termination; up-grading, demotion, or transfer; rates of pay or other forms of compensation; selection for training, including apprenticeship, and use of facilities). Under existing law a primary objective of Federal financial assistance under the program covering stabilization payments to small domestic producers of lead and zinc ores and concentrates (§ 101-6.217(q)) is to provide employment.

§ 101-6.204-3 Special programs.

An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 101-6.205 Assurances required.

§ 101-6.205-1 General.

(a) Every application for Federal financial assistance to carry out a program to which this Subpart 101-6.2 applies, except a program to which § 101-6.205-2 applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Fed-

eral financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this Subpart 101-6.2. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property, the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible GSA official shall specify the form of the foregoing assurances for each program and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) The assurance required in the case of a transfer of real property shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (1) a condition coupled with a right to be reserved to the agency having the enforcement responsibility (§ 101-6.207-1) to revert title to the property in the event of breach of such nondiscrimination condition, and (2) a covenant running with the land. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the head of the agency having the enforcement responsibility may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(c) The assurance required in the case of a transfer of personal property shall be inserted in the instrument effecting the transfer of the property.

(d) In the case of programs not involving a transfer of property, the assurance required shall be inserted in the agreement executed between the United States and the recipient covering the extension of Federal financial assistance.

§ 101-6.205-2 Continuing State programs.

Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this regulation applies shall as a condition to its approval and the ex-

tension of any Federal financial assistance pursuant to the application (a) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this regulation, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (b) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible official of the Federal agency concerned to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this regulation, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under clause (a) will be corrected.

§ 101-6.205-3 Elementary and secondary schools.

The requirements of §§ 101-6.205-1 and 101-6.205-2 with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (a) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (b) submits a plan for the desegregation of such school or school system which the United States Commissioner of Education determines is adequate to accomplish the purposes of the Act and applicable regulations thereunder, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the Commissioner may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this Subpart 101-6.2. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

§ 101-6.205-4 Applicability of assurances.

(a) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this § 101-6.205 shall extend to admission practices and to all other practices relating to the treatment of students.

(b) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the

satisfaction of the responsible GSA official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(c) Where an installation or facility (for example, a public airport, or park or recreation area) is comprised of real property for which application is made under a program, and, in addition, other real property of the applicant, the assurance required under this § 101-6.205 shall be applicable to the entire installation or facility.

§ 101-6.206 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions of this subpart § 101-6.2 to certain programs of GSA (in all cases the discrimination prohibited is discrimination on the ground of race, color, or national origin, prohibited by Title VI of the Act and this Subpart 101-6.2):

(a) In the programs involving the transfer of surplus property for airport, park or recreation, historic monument, wildlife conservation, or street widening purposes (§§ 101-6.217 (c), (d), (e), and (h)), the public generally is entitled to the use of the facility and to receive the services provided by the facility and to facilities operated in connection therewith, without segregation or any other discriminatory practices.

(b) In the program involving the loan of machine tools to nonprofit institutions or training schools (§ 101-6.217 (o)), discrimination by the recipient in the admission of students or trainees or in the treatment of its students or trainees in any aspect of the educational process is prohibited. In the case of an institution of higher education, the prohibition applies to the entire institution except as provided in paragraph (b) of § 101-6.205.4. In the case of elementary or secondary schools, the prohibition applies to all elementary and secondary schools of the recipient school district, consistent with § 101-6.205-3. In this and other illustrations the prohibition of discrimination in the treatment of students or trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the recipient.

(c) In the programs involving the donation of personal property to public bodies or the American National Red Cross (§§ 101-6.217 (f) and (j)), discrimination in the selection or treatment of individuals to receive or receiving the benefits or services of the program is prohibited.

(d) In the program involving the donation of personal property to eleemosynary institutions (§ 101-6.217 (i)), the assurance will apply to applicants for admission, patients, interns, residents,

student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the institution, and will apply to the entire institution and to facilities operated in connection therewith, subject to the provisions of §§ 101-6.205-4(b).

(e) In the programs involving the allotment of space by GSA to Federal Credit Unions, without charge for rent or services, and the provision of free space and utilities for vending stands operated by blind persons (§§ 101-6.217 (i) and (k)), discrimination by segregation or otherwise in providing benefits or services is prohibited.

(f) In the program involving grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving, and compiling and publishing of documentary sources significant to the history of the United States (§ 101-6.217 (n)), discrimination by the recipient in the selection of students or other participants in the program, and, with respect to educational institutions, in the admission or treatment of students, is prohibited.

(g) In the program involving stabilization payments to small domestic producers of lead and zinc ores and concentrates (§ 101-6.217 (q)), discrimination against applicants for employment or employees is prohibited.

(h) A recipient may not take action that is calculated to bring about indirectly what this subpart forbids it to accomplish directly.

§ 101-6.207 Enforcement responsibility and information.

§ 101-6.207-1 Agencies responsible.

The responsibility for determining and enforcing compliance with this Subpart 101-6.2, including the assurances in the transfer instruments referred to in § 101-6.205-1, is as follows:

(1) The Administrator of the Federal Aviation Agency with respect to surplus real or personal property disposed of for public airport purposes (§ 101-6.217 (c)).

(2) The Secretary of Interior in the case of surplus real property, including improvements, disposed of for use as a public park, public recreation area, or historic monument (§ 101-6.217 (d)).

(3) The Administrator of General Services in the case of all other programs to which this Subpart 101-6.2 applies.

§ 101-6.207-2 Regulations applicable.

The regulations issued pursuant to Title VI of the Act by the head of each agency named in paragraph (a) of this § 101-6.207 shall be applicable to that agency's compliance and enforcement activities.

§ 101-6.207-3 Agency instructions and reports.

Notwithstanding paragraphs (b) and (c) of § 101-6.203, each agency, other than GSA, involved in the administration of the programs described in §§ 101-6.217 (a) through (d) shall furnish to GSA copies of all instructions and changes therein issued to implement, with respect to such programs, the regulations issued by such agency pursuant to

Title VI of the Act. In addition, each such agency shall promptly advise GSA of any sanctions imposed or removed by such agency with respect to said programs.

§ 101-6.208 Applicability of §§ 101-6.209 through 101-6.214.

Sections 101-6.209 through 101-6.214, relating to compliance and enforcement are applicable only to programs with respect to which GSA has the enforcement responsibility.

§ 101-6.209 Compliance information.

§ 101-6.209-1 Cooperation and assistance.

Each responsible GSA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Subpart 101-6.2 and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

§ 101-6.209-2 Compliance reports.

Each recipient shall keep such records and submit to the responsible GSA official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible GSA official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Subpart 101-6.2. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart.

§ 101-6.209-3 Access to sources of information.

Each recipient shall permit access by the responsible GSA official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this subpart. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

§ 101-6.209-4 Information to beneficiaries and participants.

Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Subpart 101-6.2 and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible GSA official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this Subpart 101-6.2.

§ 101-6.210 Conduct of investigations.

§ 101-6.210-1 Periodic compliance reviews.

The responsible GSA official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this regulation.

§ 101-6.210-2 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this Subpart 101-6.2 may by himself or by a representative file with the responsible GSA official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible GSA official or his designee.

§ 101-6.210-3 Investigations.

The responsible GSA official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Subpart 101-6.2. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

§ 101-6.210-4 Resolution of matters.

(a) If an investigation pursuant to § 101-6.210-3 indicates a failure to comply with this Subpart 101-6.2, the responsible GSA official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 101-6.211.

(b) If an investigation does not warrant action pursuant to paragraph (a) of this section the responsible GSA official or his designee will so inform the recipient and the complainant, if any, in writing.

§ 101-6.210-5 Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this Subpart 101-6.2, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 101-6.211 Procedure for effecting compliance.

§ 101-6.211-1 General.

If there appears to be a failure or threatened failure to comply with this

Subpart 101-6.2, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (a) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (b) any applicable proceeding under State or local law.

§ 101-6.211-2 Noncompliance with § 101-6.205.

If an applicant fails or refuses to furnish an assurance required under § 101-6.205 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of § 101-6.211-3. The GSA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under § 101-6.211-3 except that GSA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this Subpart 101-6.2.

§ 101-6.211-3 Termination of or refusal to grant or to continue Federal financial assistance.

No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (a) the responsible GSA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (b) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Subpart 101-6.2, (c) the action has been approved by the Administrator pursuant to § 101-6.213-5, and (d) the expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

§ 101-6.211-4 Other means authorized by law.

No action to effect compliance by any other means authorized by law shall be taken until (a) the responsible GSA official has determined that compliance

cannot be secured by voluntary means, (b) the action has been approved by the Administrator, (c) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (d) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this Subpart 101-6.2 and to take such corrective action as may be appropriate.

§ 101-6.212 Hearings.

§ 101-6.212-1 Opportunity for hearing.

Whenever an opportunity for a hearing is required by § 101-6.211-3, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (a) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible GSA official that the matter be scheduled for hearing, or (b) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 101-6.211-3, and consent to the making of a decision on the basis of such information as is available.

§ 101-6.212-2 Time and place of hearing.

Hearings shall be held at the offices of GSA in Washington, D.C., at a time fixed by the responsible GSA official unless he determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before the responsible GSA official or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act, 5 U.S.C. 1010.

§ 101-6.212-3 Right to counsel.

In all proceedings under this § 101-6.212 the applicant or recipient and GSA shall have the right to be represented by counsel.

§ 101-6.212-4 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, 5 U.S.C. 1004-1007, and in accordance with such rules of procedure as are

proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 101-6.212-1, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(b) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart 101-6.2, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

§ 101-6.212-5 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute non-compliance with this Subpart 101-6.2 with respect to two or more programs to which this subpart applies, or non-compliance with this subpart and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Administrator may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this regulation. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 101-6.213.

§ 101-6.213 Decisions and notices.

§ 101-6.213-1 Decision by person other than the responsible GSA official.

If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible GSA official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible GSA official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible GSA official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a

notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible GSA official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible GSA official.

§ 101-6.213-2 Decisions on record or review by the responsible GSA official.

Whenever a record is certified to the responsible GSA official for decision or he reviews the decision of a hearing examiner pursuant to § 101-6.213-1, or whenever the responsible GSA official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible GSA official shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101-6.213-3 Decisions on record where a hearing is waived.

Whenever a hearing is waived pursuant to § 101-6.212 a decision shall be made by the responsible GSA official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101-6.213-4 Rulings required.

Each decision of a hearing officer or responsible GSA official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Subpart 101-6.2 with which it is found that the applicant or recipient has failed to comply.

§ 101-6.213-5 Approval by Administrator.

Any final decision of a responsible GSA official (other than the Administrator) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this Subpart 101-6.2 or the Act, shall promptly be transmitted to the Administrator, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

§ 101-6.213-6 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this Subpart 101-6.2, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this subpart, or to have otherwise failed to comply with this subpart, unless and until it corrects its noncompliance and

satisfies the responsible GSA official that it will fully comply with this subpart.

§ 101-6.214 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 101-6.215 Effect on other regulations; forms and instructions.

§ 101-6.215-1 Effect on other regulations.

All regulations, orders, or like directions heretofore issued by any officer of GSA which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this Subpart 101-6.2 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this subpart, except that nothing in this subpart shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this subpart. Nothing in this subpart, however, shall be deemed to supersede any of the following (including future amendments thereof):

(a) Executive Order 10925, 26 F.R. 1977, 3 CFR 1959-1963 Comp., and regulations issued thereunder,

(b) Executive Order 11114, 28 F.R. 6485, 3 CFR 1963 Supp., and regulations issued thereunder, or

(c) Any other regulations or instructions insofar as such regulations or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this subpart is inapplicable, or prohibit discrimination on any other ground.

§ 101-6.215-2 Forms and instructions.

Each responsible GSA official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this Subpart 101-6.2 as applied to programs to which this subpart applies and for which he is responsible.

§ 101-6.215-3 Supervision and coordination.

The Administrator may from time to time assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this Subpart 101-6.2 (other than responsibility for final decision as provided in § 101-6.213), including the achievement of effective coordination and maximum uniformity within GSA and within the Executive Branch of the Government in the application of Title VI and this subpart to similar programs and in similar situations.

§ 101-6.216 Definitions.

As used in this subpart:

(a) The term "General Services Administration" or "GSA" includes each of its operating services and other organizational units.

(b) The term "Administrator" means the Administrator of General Services.

(c) The term "responsible GSA official" with respect to any program receiving Federal financial assistance means the Administrator or other official of GSA who by law or by delegation has the principal responsibility within GSA for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible GSA official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

§ 101-6.217 Programs to which this Subpart 101-6.2 applies.

(a) Donation of surplus personal property for use in any State for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(j) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j)), and the making available to State agencies for surplus property, or the transfer of title to such agencies, of surplus personal property approved for donation for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(n) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(n)).

(b) Disposal of surplus real and related personal property for purposes of education or public health, including research (section 203(k) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)).

(c) Disposal of surplus real or personal property for public airport purposes (section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. 1622(g))).

(d) Disposal of surplus real property, including improvements, for use as a public park, public recreational area, or historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. 1622(h)).

(e) Disposal of real property to States for wildlife conservation purposes (Act of May 19, 1948, 16 U.S.C. 667b-d).

(f) Donation of personal property to public bodies (section 202(h) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 483(h)).

(g) Grants of easements by the General Services Administration pursuant to the Act of October 23, 1962 (40 U.S.C. 319-319c), and grants by the General Services Administration of revocable licenses or permits to use or occupy Federal real property, if the consideration to the Government for such easement, licenses, or permits is less than estimated fair market value.

(h) Conveyance of real property or interests therein by the General Services

Administration to States or political subdivisions for street widening purposes pursuant to the Act of July 7, 1960 (40 U.S.C. 345c), if the consideration to the Government is less than estimated fair market value.

(i) Allotment of space by the General Services Administration in Federal buildings to Federal Credit Unions, without charge for rent or services (section 25 of the Federal Credit Union Act, 12 U.S.C. 1770).

(j) Donation of surplus property to the American National Red Cross (section 203(l) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(l)).

(k) Provision by the General Services Administration of free space and utilities for vending stands operated by blind persons (§ 1 of the Randolph-Sheppard Act, 20 U.S.C. 107).

(l) Donation of forfeited distilled spirits, wine, and malt beverages to eleemosynary institutions (26 U.S.C. 5688).

(m) Donation of surplus Federal records (Federal Records Disposal Act of 1943, 44 U.S.C. 366-380).

(n) Grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving and compiling, and publishing of documentary sources significant to the history of the United States (section 503 of the Federal Property and Administrative Services Act of 1949, as amended by P.L. 88-383).

(o) Loan of machine tools and industrial manufacturing equipment in the national industrial reserve to nonprofit educational institutions or training schools (section 7 of the National Industrial Reserve Act of 1948, 50 U.S.C. 456).

(p) District of Columbia grant-in-aid hospital program (60 Stat. 896, as amended).

(q) Stabilization payments to small domestic producers of lead and zinc ores and concentrates (30 U.S.C. 681-689; Delegation of Authority from the Secretary of the Interior to the Administrator of General Services, 27 F.R. 3822).

(r) Payments in lieu of taxes on certain real property transferred from the Reconstruction Finance Corporation (Title VII of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 521-524).

(s) Conveyance of certain lands and property to the State of Hawaii without reimbursement (P.L. 88-233, 77 Stat. 472).

Effective date: This subpart shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

LAWSON B. KNOTT, Jr.,
Acting Administrator
of General Services.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

[F.R. Doc. 64-12537; Filed, Dec. 3, 1964;
4:23 p.m.]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 17—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF THE INTERIOR—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of 43 CFR is hereby amended by adding a new Part 17 reading as follows:

Sec.	
17.1	Purpose.
17.2	Application of this part.
17.3	Discrimination prohibited.
17.4	Assurances required.
17.5	Compliance information.
17.6	Conduct of investigation.
17.7	Procedure for effecting compliance.
17.8	Hearings.
17.9	Decisions and notices.
17.10	Judicial review.
17.11	Effect on other regulations; forms and instructions.
17.12	Definitions.

AUTHORITY: The provisions of this Part 17 are issued under sec. 602, 78 Stat. 252, and the laws referred to in Appendix A.

§ 17.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of the Interior.

§ 17.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including programs and activities that are Federally assisted under the laws listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the regulation pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) except to the extent described in § 17.3, any employment practice, under any such program, of any employer, employment agency, or labor organization. The fact that a statute under which Federal financial assistance is extended to a program or activity is not listed in Appendix A shall not

mean, if Title VI is otherwise applicable, that such program or activity is not covered. Other statutes now in force or hereafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 17.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) References in this section to services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph (b) and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program to which this regulation applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (1) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (2) to assist such individuals in meeting expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience which contributes to the education or training of such individuals. Assistance given programs under the following laws has one of the above purposes as a primary objective:

Department projects under the Public Works Acceleration Act, 42 U.S.C. 2641-2643.

Aid to education—Commercial fisheries, 16 U.S.C. 760d.

Water Resources Research Act of 1964, Title I, Public Law 88-379, 78 Stat. 329.

Programs under statutes listed in Appendix A as respects employment opportunities provided thereunder, or in facilities provided thereunder, which are limited or for which preference is given, to students, fellows, or other persons in training for the same or related employments.

The requirements applicable to construction employment under any such program shall be those specified in or pursuant to E.O. 11114.

(d) *Programs for Indians, natives of certain territories, and Alaska natives.* An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program which, in accordance with Federal law, is limited to Indians, natives of certain territories, or Alaska natives, if the individual is not a member of the class to which the program is addressed. Such programs include those authorized by statutes listed in Appendix B of this part.

(e) *Medical emergencies.* Notwithstanding the foregoing provisions of this section, a recipient of Federal financial assistance shall not be deemed to have failed to comply with paragraph (a) of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such

service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 17.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The head of the bureau or office administering the Federal financial assistance shall specify the form of the foregoing assurances for each program and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) The assurance required in the case of a transfer of real property, except where covered by subparagraph (3) of this paragraph (a), shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition during the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, and (ii) a covenant running with the land for the same period. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for

so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

(b) *Continuing State programs.* (1) Every application by a State or any agency or political subdivision of a State to carry out a program involving continuing Federal financial assistance to which this regulation applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (i) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (ii) provide or be accompanied by provision for such methods of administration for the program as are found by the head of the bureau or office administering the Federal financial assistance to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this regulation, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under subdivision (i) of this subparagraph will be corrected.

(2) With respect to some programs which are carried out by States or agencies or political subdivisions of States and which involve continuing Federal financial assistance administered by the Department, there has been no requirement that applications be filed by such recipients. From the effective date of this part no Federal financial assistance administered by this Department will be extended to a State or to an agency or a political subdivision of a State unless an application for such Federal financial assistance has been received from the State or State agency or political subdivision.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) or (b) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the United States Commissioner of Education determines is adequate to accomplish the purposes of the Act and this part, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the Commissioner may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the

United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, for a student assistance program, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the head of the bureau or office administering the Federal financial assistance, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 17.5 Compliance information.

(a) *Cooperation and assistance.* The head of each bureau or office administering Federal financial assistance shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the head of the bureau or office administering the Federal financial assistance timely, complete and accurate compliance reports, at such times, and in such form and containing such information, as the head of the bureau or office or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the head of the bureau or office administering the Federal financial assistance or his designee or by an employee authorized by the Secretary or his designee during normal business hours to such

of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the head of the bureau or office administering the Federal financial assistance finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 17.6 Conduct of investigations.

(a) *Periodic compliance reviews.* The head of each bureau or office administering Federal financial assistance or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the head of the bureau or office administering the Federal financial assistance or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the head of the bureau or office or his designee.

(c) *Investigations.* The head of a bureau or office or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this regulation, the head of the bureau or office or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 17.7.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the head of the bureau or office or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 17.7 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 17.4.* If an applicant fails or refuses to furnish an assurance required under § 17.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the head of the bureau or office administering the Federal financial assistance has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary pursuant to paragraph (e) of § 17.9, and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the

grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the head of the bureau or office administering the Federal financial assistance has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 17.8 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by paragraph (c) of § 17.7, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the head of the bureau or office or the hearing examiner to whom the matter has been assigned that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and paragraph (c) of § 17.7 and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the head of the bureau or office or the hearing examiner to whom the matter has been assigned unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the head of the bureau or office admin-

istering the Federal financial assistance or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.*

(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5 through 8 of the Administrative Procedure Act (5 U.S.C. 1004 through 1007) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent that the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 17.9.

§ 17.9 Decisions and notices.

(a) *Decision by a hearing examiner.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the head of the bureau or office administering the Federal

financial assistance for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. If the initial decision is made by the hearing examiner, the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the head of the bureau or office his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the head of the bureau or office may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the head of the bureau or office shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence either of exceptions or of a notice of review, the initial decision shall constitute the final decision of the head of the bureau or office.

(b) *Decisions on record or review by the head of a bureau or office.* Whenever a record is certified to the head of the bureau or office for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the head of the bureau or office conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the head of the bureau or office shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to paragraph (a) of § 17.8, a decision shall be made by the head of the bureau or office on the record and a copy of such decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing examiner or the head of a bureau or office shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this regulation with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Secretary.* Any final decision of the head of a bureau or office which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of decisions.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such pro-

gram to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this part, unless and until it corrects its non-compliance and satisfies the head of the bureau or office that it will fully comply with this part.

§ 17.10 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 17.11 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this regulation applies and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this regulation. Nothing in this regulation, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations issued thereunder, (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions insofar as such Order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* The head of each bureau and office administering Federal financial assistance shall issue and promptly make available to interested persons instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to such officials of the Department as he deems appropriate, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 17.9), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Title VI of the Act and this part to similar programs and in similar situations.

§ 17.12 Definitions.

As used in this part:

(a) The term "Act" means the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

(b) The term "Department" means the Department of the Interior, and includes each of its bureaus and offices.

(c) The term "Secretary" means the Secretary of the Interior.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) grants or donations of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private

agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include the ultimate beneficiary under such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by the head of a bureau or office, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

NOVEMBER 30, 1964.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

Federal financial assistance subject to Part 17 includes, but is not limited to, that authorized by the following statutes:

1. *Public Lands and Acquired Lands.* (a) Grants and loans of Federal funds.

1. Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. secs. 181-287).

2. Mineral Leasing Act for Acquired Lands (30 U.S.C. secs. 351-359).

3. Alaska Grazing Act (44 Stat. 1452, 48 U.S.C. sec. 471, et seq.).

4. Proceeds of Certain Land Sales (R.S. sec. 3689, as amended, 31 U.S.C. sec. 711 (17)).

5. Taylor Grazing Act (48 Stat. 1269, as amended, 43 U.S.C. sec. 315 et seq.).

6. Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (50 Stat. 874, 43 U.S.C. sec. 1181f).

7. Payment to States for Swamp Lands Erroneously Sold by U.S. (R.S. sec. 3689, as amended, 31 U.S.C. 711 (18)).

8. Alaska Statehood Act, sec. 6(f), (72 Stat. 341, 48 U.S.C. note preceding sec. 21).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Materials Act (61 Stat. 681, as amended, 30 U.S.C. secs. 601-604).

2. Rights-of-way for Tramroads, Canals, Reservoirs (28 Stat. 635, as amended, 43 U.S.C. secs. 956, 957).

3. Highway Rights-of-way (R.S. sec. 2477, 43 U.S.C. sec. 932).

4. Small Tract Act (52 Stat. 609, as amended, 43 U.S.C. secs. 682a-682e).

5. Rights-of-way for Dams, Reservoirs, Water Plants, Canals, etc. (33 Stat. 628, 16 U.S.C. sec. 524).

6. Rights-of-way for Power and Communication Facilities (36 Stat. 1253, as amended, 43 U.S.C. sec. 961).

7. Rights-of-way for Electrical Plants, Poles, etc. (31 Stat. 790, as amended, 43 U.S.C. sec. 959).

8. Recreation and Public Purposes Act (44 Stat. 741, as amended, 43 U.S.C. secs. 869-869-4).

9. Stock-Watering Reservoirs (29 Stat. 434, as amended, 43 U.S.C. secs. 952-955).

10. Alaska Housing Authority Act (63 Stat. 60, 48 U.S.C. sec. 484c).

11. Railroad Rights-of-way in Alaska (30 Stat. 409, 48 U.S.C. secs. 411-419).

12. Grants to States in Aid of Schools (44 Stat. 1026, as amended, 43 U.S.C. sec. 870).

13. Carey Act (28 Stat. 422, as amended, 43 U.S.C. sec. 641).

14. Airports and Aviation Fields (45 Stat. 728, as amended, 49 U.S.C. secs. 211-214).

15. Special Land Use Permits (R.S. sec. 453, as amended, 43 U.S.C. sec. 2).

16. Rights-of-way for Irrigation and Drainage (26 Stat. 1101, as amended, 43 U.S.C. sec. 946).

17. Rights-of-way for Pipelines to Transport Oil or Natural Gas (41 Stat. 449, as amended, 30 U.S.C. sec. 185).

18. Townsite Laws (R.S. 2380 et seq., as amended, 43 U.S.C. sec. 711 et seq.).

19. Leases of Lands near Springs (43 Stat. 1133, 43 U.S.C. sec. 971).

20. Rights-of-way for Railroads (18 Stat. 482, 43 U.S.C. sec. 934).

21. Grants of Easements (76 Stat. 1129, 40 U.S.C. secs. 319-319c).

II. *Water and Power.* (a) Grants and loans of Federal funds.

1. Federal Reclamation Program (32 Stat. 388, 43 U.S.C. sec. 391, and Acts amendatory or supplementary thereto).

2. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. sec. 569).

3. Distribution System Loan Program (69 Stat. 244, as amended, 43 U.S.C. sec. 421a-421d).

4. Rehabilitation and Betterment Loan Program (63 Stat. 724, as amended, 43 U.S.C. sec. 504).

5. Small Reclamation Project Loan Program (70 Stat. 1044, 43 U.S.C. sec. 422a-422k).

6. Assistance to School Districts on Reclamation Projects (62 Stat. 1108, 43 U.S.C. sec. 385a).

7. Payment from Colorado River Dam Fund, Boulder Canyon Project (54 Stat. 776, as amended, 43 U.S.C. 618(c)).

8. Payment on In Lieu of Taxes Lands Acquired Pursuant to Columbia Basin Project Act (57 Stat. 19, 16 U.S.C. sec. 835c-1).

9. Payment in Lieu of Taxes on Land to Trinity County, California (69 Stat. 729).

10. Saline Water Research Program (66 Stat. 328, as amended, 42 U.S.C. sec. 1951).

11. Water User Repayment Obligations on Reclamation Projects (43 Stat. 703, 43 U.S.C. sec. 501, 62 Stat. 273, 66 Stat. 754).

12. Water Resources Research Act (78 Stat. 329).

(b) Sale, lease, grant or other disposition of, or the permission to use Federal property or any interest in such property at less than fair market value.

1. Townsite Disposal on Reclamation Projects (34 Stat. 116, 43 U.S.C. sec. 566).

2. Transfer of Federal Property in Coulee Dam, Washington (71 Stat. 529, 16 U.S.C. sec. 835c note).

3. Transfer of Federal Property to Boulder City, Nevada (72 Stat. 1726, 43 U.S.C. sec. 617u note).

4. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. sec. 569).

5. Saline Water Research Program—Donation of Laboratory Equipment (72 Stat. 1793, 42 U.S.C. sec. 1892).

6. Reclamation Program—Conveyance of Land to School Districts (41 Stat. 326, 43 U.S.C. sec. 570).

7. Recreation and Public Purposes Program (44 Stat. 741, as amended, 43 U.S.C. sec. 869-869a).

8. Dedication of Land for Public Purposes, Page, Arizona (72 Stat. 1686, 1688).

9. Removal of Sand, Gravel, and Other Minerals, and Building Materials from Reclamation Project Lands (53 Stat. 1196, as amended, 43 U.S.C. sec. 387).

III. *Mineral Resources.* Grants and loans of Federal funds.

1. Control of Coal Mine Fires (68 Stat. 1009, 30 U.S.C. sec. 551-558 et seq.).

2. Anthracite Mine Drainage and Flood Control and Sealing of Abandoned Mines and Filling Voids (69 Stat. 352, as amended, 30 U.S.C. secs. 571-576).

IV. *Fish and Wildlife.* (a) Grants and loans of Federal funds.

1. Pittman-Robertson Act (50 Stat. 917, as amended, 16 U.S.C. sec. 669).

2. Dingell-Johnson Act (64 Stat. 430, 16 U.S.C. sec. 777).

3. Sharing of Refuge Revenues (49 Stat. 383, as amended, 16 U.S.C. sec. 715e).

4. Aid to Alaska (Section 6(e) of the Alaska Statehood Act, 72 Stat. 340, and Act of February 28, 1944, 58 Stat. 101, 16 U.S.C. sec. 631e).

5. Commercial Fisheries Resource and Development Act (78 Stat. 197).

6. Aid to Education (70 Stat. 1126, 16 U.S.C. sec. 760d).

7. Development of Disease Resistant Oysters (76 Stat. 356, 16 U.S.C. secs. 760j-760l).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. sec. 753a).

2. Fishery Development in the South Pacific (61 Stat. 726, as amended, 16 U.S.C. sec. 758b).

3. Migratory Marine Fishery Program (73 Stat. 642, 16 U.S.C. sec. 760f).

4. Protection and Conservation of Bald and Golden Eagles (54 Stat. 251, as amended, 16 U.S.C. sec. 668a).

5. Wildlife Land Transfers (sec. 8 of Colorado River Storage Project Act of 1956, 70 Stat. 110, 43 U.S.C. sec. 620g).

6. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. secs. 661-664).

(c) Furnishing of services of a type for which the recipient would otherwise pay.

1. Rice Land Fishery Program (72 Stat. 35, 16 U.S.C. sec. 778a).

2. Lamprey Eradication Program (60 Stat. 930, as amended, 16 U.S.C. sec. 921).

3. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. sec. 753a).

4. Fishery Development in the South Pacific (61 Stat. 726, as amended, 16 U.S.C. sec. 758b).

5. Migratory Marine Fishery Program (73 Stat. 642, 16 U.S.C. sec. 760f).

6. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. sec. 661 et seq.).

V. *Parks and Territories.* (a) Grants and loans of Federal funds.

1. Payments to School Districts—Yellowstone National Park (62 Stat. 338, 16 U.S.C. sec. 40a).

2. Payments in Lieu of Taxes—Grand Teton National Park (64 Stat. 851, 16 U.S.C. 406d-3).

3. Payments to North Dakota for International Peace Park (63 Stat. 888, as amended, 68 Stat. 300, 72 Stat. 985).

4. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. 4601).

5. Revised Organic Act of the Virgin Islands (68 Stat. 497, as amended, 48 U.S.C. sec. 1541-1644).

6. Guam Rehabilitation Act (77 Stat. 302).

7. Organic Act of Guam (64 Stat. 384, as amended, 48 U.S.C. secs. 1421-1425 except sec. 9(a), 48 U.S.C. sec. 1422c(a)).

8. Guam Agricultural Act (P.L. 88-584, 78 Stat. 926).

(b) Sale, lease, grant or other disposition of, or the permission to use Federal property or any interest in such property at less than fair market value.

1. Puerto Rico Federal Relations Act (39 Stat. 954, 48 U.S.C. sec. 748).

2. Virgin Islands Corporation Act (63 Stat. 350, as amended, 48 U.S.C. sec. 1407 et seq.).

3. Territorial Submerged Lands Act (77 Stat. 338, 48 U.S.C., secs. 1701-1704).

4. Organic Act of Guam (64 Stat. 392, 48 U.S.C. 1421f(c)).

(c) Furnishing of services by the Federal Government of a type for which the recipient would otherwise pay.

1. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. sec. 4601).

VI. *Indian Affairs.* (a) Grants and loans of Federal funds.

1. Menominee County, Wis. Educational Grants (76 Stat. 53).

(b) Sale, lease, grant, or other disposition of or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Conveyance of School Property (67 Stat. 41, as amended, 25 U.S.C. sec. 293a).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. sec. 309).

VII. *General.* 1. Department Projects under the Public Works Acceleration Act (76 Stat. 541, 42 U.S.C. secs. 2641-2643).

2. Grants for Support of Scientific Research (72 Stat. 1793, 42 U.S.C. secs. 1891-1893).

3. Special Use Permits (R.S. sec. 441, as amended, 5 U.S.C. sec. 485).

4. Land and Water Conservation Fund Act of 1964 (Public Law 88-578, 78 Stat. 897).

APPENDIX B

The following statutes authorize programs limited to individuals of a particular race, color, or national origin.

I. *Indians and Alaska Natives.* 1. Snyder Act (42 Stat. 208, 25 U.S.C. sec. 13).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. sec. 309).

3. Vocational and Trade School Act (48 Stat. 986, 25 U.S.C. sec. 471).

4. Johnson-O'Malley Act (48 Stat. 596, as amended, 25 U.S.C. secs. 452-53).

5. Revolving Fund for Loan to Indians (48 Stat. 986, 25 U.S.C. sec. 470).

6. Revolving Fund for Loans to Tribes (77 Stat. 301).

7. Conveyance of Buildings, Improvements, or Facilities to Tribes (70 Stat. 1057, 25 U.S.C. sec. 443a).

8. Alaska Reindeer Act (50 Stat. 900, 48 U.S.C. secs. 250-250p).

9. Disposals to Alaskan Natives (44 Stat. 629, 48 U.S.C. secs. 355a and 355c).

II. *Natives of Certain Territories.* 1. Acceptance of Samoan Cession Agreement (45 Stat. 1253, as amended, 48 U.S.C. 1661).

2. Samoan Omnibus Act (76 Stat. 598, 48 U.S.C. 1666).

3. Guam Organic Act (64 Stat. 387, 48 U.S.C. 1422c).

[F.R. Doc. 64-12538; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 80—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A 45 CFR is hereby amended by adding the following new Part 80:

Sec.	Purpose.
80.1	Application of this part.
80.2	Discrimination prohibited.
80.3	

Sec.	
80.4	Assurances required.
80.5	Illustrative applications.
80.6	Compliance information.
80.7	Conduct of investigations.
80.8	Procedure for effecting compliance.
80.9	Hearings.
80.10	Decisions and notices.
80.11	Judicial review.
80.12	Effect on other regulations; forms and instructions.
80.13	Definitions.

AUTHORITY: The provisions of this Part 80 are issued under sec. 602, 78 Stat. 252, and the laws referred to in Appendix A.

§ 80.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Health, Education, and Welfare.

§ 80.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the Federally-assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the regulation pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 80.3. The fact that a program or activity is not listed in Appendix A shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 80.3 Discrimination prohibited.

(a) **General.** No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) **Specific discriminatory actions prohibited.** (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is

different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) **Employment practices.** Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs

where a primary objective of the Federal financial assistance is (i) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (ii) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, (iii) to provide work experience which contributes to the education or training of such individuals, or (iv) to provide remunerative activity to such individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market. The following programs under existing laws have one of the above objectives as a primary objective:

(a) Department projects under the Public Works Acceleration Act, Public Law 87-658.

(b) Community work and training programs under title IV of the Social Security Act, 42 U.S.C. 609.

(c) Work-study program under the Vocational Education Act of 1963, P.L. 88-210, sec. 13.

(d) Programs listed in Appendix A as respects employment opportunities provided thereunder, or in facilities provided thereunder, which are limited, or for which preference is given, to students, fellows, or other persons in training for the same or related employments.

(e) Establishment of sheltered workshops under the Vocational Rehabilitation Act, 29 U.S.C. 32-34.

The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114.

(d) **Indian Health and Cuban Refugee programs.** An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

(e) **Medical emergencies.** Notwithstanding the foregoing provisions of this section, a recipient of Federal financial assistance shall not be deemed to have failed to comply with paragraph (a) of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 80.4 Assurances required.

(a) **General.** (1) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used

for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible Department official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) The assurance required in the case of a transfer of surplus real property shall be inserted in the instrument effecting the transfer of any such surplus land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition during the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, and (ii) a covenant running with the land for the same period. In the event a transferee of surplus real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(b) *Continuing State programs.* Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies (including the programs listed in Part 2 of Appendix A) shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part, including methods of administration which give reasonable

assurance that any noncompliance indicated in the statement under subparagraph (1) of this paragraph will be corrected.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) or (b) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the Commissioner of Education determines is adequate to accomplish the purposes of the Act and this part, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the Commissioner may reserve the right to re-determine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, for a student loan program, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 80.5 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions to some of the major programs of the Department. (In all cases the discrimination prohibited is discrimination on the ground of race, color, or national

origin prohibited by title VI of the Act and this part, as a condition of the receipt of Federal financial assistance.)

(a) In grant programs which support the provision of health or welfare services, discrimination in the selection or eligibility of individuals to receive the services, and segregation or other discriminatory practices in the manner of providing them, are prohibited. This prohibition extends to all facilities and services provided by the grantee under the program or, if the grantee is a State, by a political subdivision of the State. It extends also to services purchased or otherwise obtained by the grantee (or political subdivision) from hospitals, nursing homes, schools, and similar institutions for beneficiaries of the program, and to the facilities in which such services are provided, subject, however, to the provisions of § 80.3(e).

(b) In the Federally-affected area programs (P.L. 315 and P.L. 874) for construction aid and for general support of the operation of elementary or secondary schools, or in programs for more limited support to such schools such as for the acquisition of equipment, the provision of vocational education, or the provision of guidance and counseling services, discrimination by the recipient school district in any of its elementary or secondary schools in the admission of students, or in the treatment of its students in any aspect of the educational process, is prohibited. In this and the following illustrations the prohibition of discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the grantee or other recipient.

(c) In a research, training, demonstration, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited, and the prohibition extends to the entire university unless it satisfies the responsible Department official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.

(d) In a training grant to a hospital or other nonacademic institution, discrimination is prohibited in the selection of individuals to be trained and in their treatment by the grantee during their training. In a research or demonstration grant to such an institution discrimination is prohibited with respect to any educational activity and any provision of medical or other services and any financial aid to individuals incident to the program.

(e) In grant programs to assist in the construction of facilities for the provision of health, educational or welfare services assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be prohibited as a condition of Federal operating grants for the support of such services. Thus, as a condition of grants for the construction

of academic, research, or other facilities at institutions of higher education, assurances will be required that there will be no discrimination in the admission or treatment of students. In the case of hospital construction grants the assurance will apply to patients, to interns, residents, student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the hospital, and will apply to the entire facility for which, or for a part of which the grant is made, and to facilities operated in connection therewith. In other construction grants the assurances required will similarly be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress.

(f) Upon transfers of real or personal surplus property for health or educational uses, discrimination is prohibited to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes.

(g) Each applicant for a grant for the construction of educational television facilities is required to provide an assurance that it will, in its broadcast services, give due consideration to the interests of all significant racial or ethnic groups within the population to be served by the applicant.

(h) A recipient may not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly. Thus a State, in selecting or approving projects or sites for the construction of public libraries which will receive Federal financial assistance, may not base its selections or approvals on criteria which have the effect of defeating or of substantially impairing accomplishment of the objectives of the Federal assistance program as respects individuals of a particular race, color, or national origin.

§ 80.6 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 80.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 80.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or his designee will

so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 80.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 80.4.* If an applicant fails or refuses to furnish an assurance required under § 80.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary pursuant to § 80.10(e), and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having

legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

§ 80.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 80.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date or such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 80.8 (c) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his discretion, before a hearing examiner designated in ac-

cordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or Joint Hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this regulation with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with § 80.10.

§ 80.10 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is

made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 80.9(a) a decision shall be made by the responsible departmental official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Secretary.* Any final decision of a responsible Department official (other than the Secretary) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assur-

ance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this part.

§ 80.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 80.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations issued thereunder, (2) the "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education, and Welfare, and of Labor, 28 F.R. 734, or (3) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such Order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Department official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 80.10), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI and this part to similar programs and in similar situations.

As used in this part—

(a) The term "Department" means the Department of Health, Education, and Welfare, and includes each of its operating agencies and other organizational units.

(b) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(c) The term "responsible Department official" with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department who by law or by delegation within the Department for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion,

renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

Effective date. This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 27, 1964.

[SEAL] ANTHONY J. CELEBREZZE,
Secretary of
Health, Education, and Welfare.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS TO WHICH THIS PART APPLIES

Part 1. *Programs other than State-administered continuing programs.*

1. Experimental hospital facilities (sec. 624, Public Health Service Act, 42 U.S.C. 291n).
2. Health research facilities (title VII, part A, Public Health Service Act, 42 U.S.C. 292-292j).
3. Teaching facilities for medical, dental, and other health personnel (title VII, part B, Public Health Service Act, 42 U.S.C. 293-293h; secs. 801-804, Public Health Service Act, 42 U.S.C. 296, 296a-c).
4. Mental retardation research facilities (title VII, part D, Public Health Service Act, 42 U.S.C. 295-295e).
5. University affiliated mental retardation facilities (part B, Mental Retardation Facilities Construction Act, 42 U.S.C. 2661-2665).
6. Heart disease laboratories and related facilities for patient care (sec. 412(d), Public Health Service Act, 42 U.S.C. 287a(d)).
7. Municipal sewage treatment works (sec. 6, Federal Water Pollution Control Act, 33 U.S.C. 466e).
8. Loans for acquisition of science, mathematics, and foreign language equipment (title III, National Defense Education Act, 20 U.S.C. 445).
9. Construction of facilities for institutions of higher education (Higher Education Facilities Act, 20 U.S.C. 701-757).
10. School construction in Federally-affected areas (20 U.S.C. 631-645).
11. Educational television broadcasting facilities (47 U.S.C. 390-397).
12. Surplus real and related personal property disposal (40 U.S.C. 484(k)).
13. George Washington University Hospital construction (76 Stat. 83, P.L. 87-460, May 31, 1962).

14. Loan service of captioned films for the deaf (42 U.S.C. 2491-2494).

15. Residential vocational education schools (20 U.S.C. 351).

16. Department projects under the Public Works Acceleration Act (P.L. 87-658).

17. Research projects, including conferences, communication activities and primate or other center grants (secs. 301, 303, 308, 624, Public Health Service Act, 42 U.S.C. 241, 242a, 242f, 291n; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c; sec. 3, Clean Air Act, 42 U.S.C. 1857b).

18. General research support (sec. 301(d), Public Health Service Act, 42 U.S.C. 241).

19. Community health studies and demonstrations (sec. 316, Public Health Service Act, 42 U.S.C. 247a).

20. Mental health demonstrations and administrative studies (sec. 303(a)(2), Public Health Service Act, 42 U.S.C. 242a).

21. Migratory workers health services (sec. 310, Public Health Service Act, 76 Stat. 592, P.L. 87-692, Sept. 25, 1962).

22. Intensive vaccination projects (sec. 317, Public Health Service Act, 42 U.S.C. 247b).

23. Tuberculosis and venereal disease control projects (current appropriation Act, P.L. 88-605).

24. Air pollution demonstration and survey projects and control programs (secs. 3 and 4, Clean Air Act, 42 U.S.C. 1857b, 1857c).

25. Water pollution demonstration grants (sec. 4(a)(2), Federal Water Pollution Control Act, 33 U.S.C. 466c).

26. Health research training projects and fellowship grants (secs. 301, 433, Public Health Service Act, 42 U.S.C. 241, 289c).

27. Categorical (heart, cancer, air pollution, etc.) grants for training, traineeships or fellowships (secs. 303, 433, etc., Public Health Service Act, 42 U.S.C. 242a, 289c, etc.; sec. 3, Clean Air Act, 42 U.S.C. 1857b; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c).

28. Advanced professional nurse traineeships, improvement in nurse training and partial reimbursement to diploma schools of nursing (secs. 805, 806, 821, Public Health Service Act, 42 U.S.C. 296d, 296e, 297).

29. Grants to institutions for traineeships for professional public health personnel (sec. 306, Public Health Service Act, 42 U.S.C. 242d).

30. Grants to schools for specialized training in public health (sec. 309, Public Health Service Act, 242g).

31. Grants for special vocational rehabilitation projects (sec. 4, Vocational Rehabilitation Act, 29 U.S.C. 34).

32. Experimental, pilot or demonstration projects to promote the objectives of title I, IV, X, XIV, or XVI of the Social Security Act (sec. 1115, Social Security Act, 42 U.S.C. 1315).

33. Social security and welfare cooperative research or demonstration projects (sec. 1110, Social Security Act, 42 U.S.C. 1310).

34. Child welfare research, training or demonstration projects (sec. 526, Social Security Act, 42 U.S.C. 726).

35. Research projects relating to maternal and child health services and crippled children's services (sec. 532, Social Security Act, 42 U.S.C. 729a).

36. Maternal and child health special project grants to institutions of higher learning (sec. 502(b), Social Security Act, 42 U.S.C. 702(b)).

37. Maternity and infant care special project grants to local health agencies (sec. 531, Social Security Act, 42 U.S.C. 726).

38. Special project grants to institutions of higher learning for crippled children's services (sec. 512(b), Social Security Act, 42 U.S.C. 712(b)).

39. Demonstration and evaluation projects and training of personnel in the field of juvenile delinquency (Juvenile Delinquency and Youth Offenses Control Act of 1961 (42 U.S.C. 2541, et seq.)).

40. Cooperative educational research (20 U.S.C. 331-332).

41. Language research (title VI, National Defense Education Act, 20 U.S.C. 512).

42. Research in new educational media (title VII, National Defense Education Act, 20 U.S.C. 541-542).

43. Research, training, and demonstration projects under Vocational Education Act of 1963 (sec. 4(c), 20 U.S.C. 35c(c)).

44. Grants for research and demonstration projects in education of handicapped children (20 U.S.C. 618).

45. Training grants for welfare personnel (sec. 705, Social Security Act, 42 U.S.C. 906).

46. Allowances to institutions training graduate fellows or other trainees (title IV, National Defense Education Act, 20 U.S.C. 461-465; sec. 4, Vocational Rehabilitation Act, 29 U.S.C. 34; secs. 301, 433, etc., Public Health Service Act, 42 U.S.C. 241, 289(c), etc.; sec. 3, Clean Air Act, 42 U.S.C. 1857b; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c).

47. Grants for teaching and the training of teachers for the education of handicapped children (20 U.S.C. 611-617).

48. Training persons in the use of films for the deaf (42 U.S.C. 2493(b)(4)).

49. Training for teachers of the deaf (20 U.S.C. 671-676).

50. Research in the use of educational and training films for the deaf (42 U.S.C. 2493(a)).

51. Operation and maintenance of schools in Federally-affected areas (20 U.S.C. 236-244).

52. Grants for teacher training and employment of specialists in desegregation problems (sec. 405, Civil Rights Act of 1964, P.L. 88-352).

53. Issuance to agencies or organizations of rent-free permits for operation, on Federal property in the custody of the Department, of vending stands for the blind, credit unions, Federal employee associations, etc. (Randolph-Sheppard Vending Stand Act, 20 U.S.C. 107-107f; 45 CFR Part 20; sec. 25, Federal Credit Union Act, 12 U.S.C. 1770; etc.).

54. Higher education student loan program (title II, National Defense Education Act, 20 U.S.C. 421-429).

55. Health professions school student loan program (title VII, Part C, Public Health Service Act, 42 U.S.C. 294; secs. 822-828, Public Health Service Act, 42 U.S.C. 297 a-g).

56. Land-grant college aid (7 U.S.C. 301-329).

57. Language and area centers (title VI, National Defense Education Act, 20 U.S.C. 511-513).

58. American Printing House for the Blind (20 U.S.C. 101-105).

59. Future Farmers of America (36 U.S.C. 271-291) and similar programs.

60. Science Clubs (20 U.S.C. 2 (note)).

61. Howard University (20 U.S.C. 121-131).

62. Gallaudet College (31 D.C. Code, Ch. 10).

63. Hawaii leprosy payments (sec. 331, Public Health Service Act, 42 U.S.C. 255).

64. Grants to schools of public health for provision of comprehensive training and specialized services and assistance (sec. 314(c), Public Health Service Act, 42 U.S.C. 246(c)).

65. Grants to agencies and organizations under Cuban Refugee program (22 U.S.C. 2601(b)(4)).

66. Grants for construction of hospitals serving Indians (P.L. 85-151, 42 U.S.C. 2005).

67. Indian Sanitation Facilities (P.L. 86-121, 42 U.S.C. 2004a).

68. Areawide planning of health facilities (sec. 318, Public Health Service Act, 42 U.S.C. 247c).

69. Training institutes under sec. 511 of the National Defense Education Act of 1958, as amended (20 U.S.C. 491) and under title XI of such Act as added by P.L. 88-665 (20 U.S.C. 591-592).

Part 2. State-administered continuing programs.

1. Grants to States for control of venereal disease, tuberculosis, and for public health services (heart, cancer, mental health, radiological health, etc.) (sec. 314, Public Health Service Act (42 U.S.C. 246), and current appropriation act).

2. Grants to States for water pollution control (sec. 5, Federal Water Pollution Control Act, 33 U.S.C. 466d).

3. Grants to States for vocational rehabilitation services (sec. 2, Vocational Rehabilitation Act, 29 U.S.C. 32).

4. Grants to States for projects to extend and improve vocational rehabilitation services (sec. 3, Vocational Rehabilitation Act, 29 U.S.C. 33).

5. Designation of State licensing agency for blind operators of vending stands (Randolph-Sheppard Vending Stand Act, 20 U.S.C. 107-107f).

6. Grants to States for old-age assistance and medical assistance for the aged (title I, Social Security Act, 42 U.S.C. 301-306).

7. Grants to States for aid and services to needy families with children (title IV, Social Security Act, 42 U.S.C. 601-609).

8. Grants to States for aid to the blind (title X, Social Security Act, 42 U.S.C. 1201-1206).

9. Grants to States for aid to the permanently and totally disabled (title XIV, Social Security Act, 42 U.S.C. 1351-1355).

10. Grants to States for aid to the aged, blind or disabled or for such aid and medical assistance for the aged (title XVI, Social Security Act, 42 U.S.C. 1381-1385).

11. Grants to States for maternal and child health services (title V, part 1, Social Security Act, 42 U.S.C. 701-705).

12. Grants to States for services for crippled children (title V, part 2, Social Security Act, 42 U.S.C. 711-715).

13. Grants to States for special projects for maternity and infant care (sec. 531, Social Security Act, 42 U.S.C. 729).

14. Grants to States for child welfare services (title V, part 3, Social Security Act, 42 U.S.C. 721-725, 727, 728).

15. Grants to States for public library services and construction (20 U.S.C. sec. 351-358; P.L. 88-269).

16. Grants to States for strengthening science, mathematics, and modern foreign language instruction (title III, National Defense Education Act, 20 U.S.C. 441-444).

17. Grants to States for guidance, counseling and testing of students (title V-A, National Defense Education Act, 20 U.S.C. 481-484).

18. Grants to States for educational statistics services (sec. 1009, National Defense Education Act, 20 U.S.C. 589).

19. Surplus personal property disposal donations for health and educational purposes through State agencies (40 U.S.C. 484(j)).

20. Grants to States for hospital and medical facilities (title VI, Public Health Service Act, 42 U.S.C. 291-291z).

21. Grants to States for community mental health centers construction (Community Mental Health Centers Act, 42 U.S.C. 2681-2688).

22. Grants to States for vocational education (Smith-Hughes Act, 20 U.S.C. 11-15, 16-28; George-Barden Act, 20 U.S.C. 151-159, 15aa-15j, 15aaa-15ggg; Supplementary Acts, 20 U.S.C. 30-34).

23. Grants to States for mental retardation facilities (Part C, Mental Retardation Facilities Construction Act, 42 U.S.C. 2671-2677).

24. Arrangements with State vocational education agencies for training under the Area Redevelopment Act and the Manpower Development and Training Act of 1962 (42 U.S.C. 2513(c), 2601, 2602).

25. Grants to States for comprehensive planning for mental retardation (title XVII, Social Security Act, 42 U.S.C. 1391-1394).
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Chapter VI—National Science Foundation

PART 611—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE NATIONAL SCIENCE FOUNDATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Part 611 reads as follows:

Sec.	Purpose.
611.1	Application of part.
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611.4	Illustrative applications.
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611.7	Procedure for effecting compliance.
611.8	Hearings.
611.9	Decisions and notices.
611.10	Judicial review.
611.11	Effect on other regulations; forms and instructions.
611.12	Definitions.

AUTHORITY: The provisions of this Part 611 issued under sec. 602, 78 Stat. 252 and sec. 11(a), 64 Stat. 153.

§ 611.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the National Science Foundation.

§ 611.2 Application of part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Foundation, including the Federally-assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the regulation pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contract, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 611.3. The fact that a program or activity is not listed in the Appendix shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereafter enacted

may be added to this list by notice published in the FEDERAL REGISTER.

§ 611.3 Discrimination prohibited.

(a) *General.* No person in the United States, shall, on grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program of an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a

facility provided with the aid of Federal financial assistance.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not directly or through contractual or other arrangements subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation and use of facilities), including programs where a primary objective of the Federal financial assistance is (i) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training or (ii) to provide work experience which contributes to the education or training of such individuals.

(2) Programs listed in Appendix A as respects employment opportunities provided thereunder, or in facilities provided thereunder, which are limited, or for which preference is given, to students, fellows, or other persons, including research associates, where in training for the same or related employments, have one of the above purposes as a primary purpose.

(3) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114.

(d) *Medical emergencies.* Notwithstanding the foregoing provisions of this section, a recipient of Federal financial assistance shall not be deemed to have failed to comply with paragraph (a) of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 611.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which