

§ 101-6.213-7 Post termination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 101-6.213-6 shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 101-6.24 shall be restored to full eligibility to receive financial assistance if it files a court order or a plan for desegregation meeting the requirements of § 101-6.205-3 and provides reasonable assurance that it will comply with this court order or plan.

(b) Any applicant or recipient adversely affected by an order entered pursuant to § 101-6.213-6 may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the responsible GSA official determines that those requirements have been satisfied, he shall restore such eligibility.

(c) If the responsible GSA official denies any such request, the applicant or recipient may submit a request, in writing, for a hearing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 101-6.213-6 shall remain in effect.

13. Section 101-6.215-1 is amended to read as follows:

§ 101-6.215-1 Effect on other regulations.

(a) Executive Orders 10925, 11114, and 11246, and regulations issued thereunder.

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

14. Section 101-6.215-3 is revised to read as follows:

§ 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 (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. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible GSA official.

15. Section 101-6.217 is amended to read as follows:

§ 101-6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

(a) (1) Donation of surplus personal property to educational activities which are of special interest to the armed services (section 203(j) (2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j) (2)).

(2) 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) (3) and (4) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j) (3) and (4)), 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) (1) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k) (1)).

(c) Donation of property for public airport purposes (section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(g); section 23 of the Airport and Airway Development Act of 1970, Public Law 91-258).

(d) (1) Disposal of surplus real property, including improvements, for use as a historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(h)).

(2) Disposal of surplus real and related personal property for public park or public recreational purposes (section 203(k) (2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k) (2)).

(q) Disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (section 414 of the Housing and Urban Development Act of 1969, Public Law 91-152).

(Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1)
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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

Miscellaneous Amendments

The following amendments were published as proposed rulemaking in 38 FR 23491 (Dec. 9, 1971). As a result of comments received, certain changes have been made in the proposal to conform to the uniform agency amendments. A new provision (vii) is added to § 17.3(b) to prohibit discrimination in the selection of planning and advisory boards. The requirement that a recipient take affirmative action to eliminate discrimination is clarified in § 17.3(b) (4) (i) and (ii). A sentence has been added to § 17.5(b) to require that recipients maintain data showing the extent to which minority group persons receive the benefits of Federal financial assistance. The time for filing complaints in § 17.6(b) has been extended from 90 to 180 days. Other minor technical corrections have been made in the original proposal.

§ 17.2 [Amended]

1. The present text of § 17.2 is designated as paragraph (a) and paragraphs (a), (b), (c), and (d) thereof are redesignated as subparagraphs (1), (2), (3), and (4).

2. A new paragraph (b), reading as follows, is added to § 17.2:

(b) In any program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving that assistance, the nondiscrimination requirement of that part shall extend to any facility located wholly or in part of the space.

§ 17.3 [Amended]

3. Paragraph (b) of § 17.3 is amended by adding the following subdivision (vii) to subparagraph (1):

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

4. Subparagraphs (3) and (4) of paragraph (b) of § 17.3 are respectively redesignated as subparagraphs (5) and (6), and new subparagraphs (3) and (4), reading as follows, are added to paragraph (b):

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) (i) In administering a program regarding which the recipient has pre-

viously discriminated against persons on the grounds of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color or national origin.

5. Paragraph (c) of § 17.3 is revised to read as follows:

(c) *Employment practices.* (1) Where a primary objective of a program of Federal financial assistance to which this part applies is to provide employment, a recipient or other party subject to this part shall 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 (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246, as amended, or any Executive Order which supersedes it.

(2) The requirements of subparagraph (1) of this paragraph apply to programs under laws funded or administered by the Department 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 in meeting expenses incident to the commencement or continuation of their education or training, or (iii) to provide work experience which contributes to the education or training of such individuals. Assistance given under the following laws has one of the above purposes as a primary objective: Water Resources Research Act of 1964, Title I, 78 Stat. 329, and those statutes listed in Appendix A to this part where the facilities or employment opportunities provided are limited, or a preference is given, to students, fellows, or other persons in training or related employment.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefit of, or to subject them to discrimination under any program to which this regulation applies,

the provisions of subparagraph (1) of this paragraph shall apply to the employment practices of the recipient or other persons subject to this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

6. Paragraph (e) of § 17.3 is deleted.

§ 17.4 [Amended]

7. Paragraph (a) of § 17.4 is revised to read as follows:

(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. Every program of Federal financial assistance shall require the submission of such an assurance. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, or improvement of real property or structures, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the 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, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended to the program. In the case where the assistance is sought 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. The Secretary 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) In the case where Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for 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. Where no transfer of property or interest therein from the Federal

Government is involved, but property is acquired or improved under a program of Federal financial assistance, the recipient shall agree to include such covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the Secretary, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if 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 subordinate such right of reversion to the lien of such mortgage or other encumbrance.

§ 17.4 [Amended]

8. In § 17.4(b) (1) (ii), the phrase "the Secretary or his designee" is substituted for the phrase "the head of the bureau or office administering the Federal financial assistance."

9. Subparagraph (2) in the first sentence of § 17.4(c) is revised to read as follows:

(2) Submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible official of the Department of Health, Education and Welfare 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.

10. Paragraph (d) of § 17.4 is revised by substituting in subparagraph (2) the phrase "the Secretary or his designee" for the phrase "the head of the bureau or office administering the Federal financial assistance."

11. Section 17.5 is revised to read as follows:

§ 17.5 Compliance information.

(a) *Cooperation and assistance.* The Secretary or his designee 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 or his designee timely, complete and accurate compliance reports, at such times, and in such form and containing such information, as the Secretary 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 general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of Federally assisted programs. 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 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 Secretary or his designee finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

12. Paragraphs (a), (b), (c) and (d) of § 17.6 are revised read as follows:

§ 17.6 Conduct of investigations.

(a) *Periodic compliance reviews.* The Secretary 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 Secretary a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Secretary, or his designee.

(c) *Investigations.* Whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part, a prompt investigation shall be made. 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 recipient shall be informed in writing 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 recipient and complainant, if any, shall be informed in writing.

§ 17.7 [Amended]

13. In subparagraph (1) of paragraph (c) of § 17.7 the phrase "Secretary or his designee" is substituted for the phrase "head of the bureau or office administering the Federal financial assistance."

14. Paragraph (d) of § 17.7 is revised to read as follows:

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the Secretary or his designee has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) 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 effort 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 [Amended]

15. In the second sentence of paragraph (a) of § 17.8 the words "the head of the bureau or office or" are deleted.

16. Paragraph (b) of § 17.8 is revised to read as follows:

(b) *Time and place of hearing.* Hearings shall be held at the Office of Hearings and Appeals of the Department in the Washington, D.C., area, at a time fixed by 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 a hearing examiner designated by the Office of Hearings and Appeals in accordance with 5 U.S.C. 3105 and 3344.

17. In subparagraph (1) of paragraph (d) of § 17.8 the phrase "in conformity with sections 5 through 8 of the Administrative Procedure Act (5 U.S.C. 1004 through 1007)" is amended to read "in conformity with 5 U.S.C. 554-557."

18. Section 17.9 is revised to read as follows:

§ 17.9 Decisions and notices.

(a) *Initial decision by a hearing examiner.* The hearing examiner shall

make an initial decision and a copy of such initial decision shall be sent by registered mail, return receipt requested, to the recipient or applicant.

(b) *Review of the initial decision.* The applicant or recipient may file his exceptions to the initial decision, with his reasons therefor, with the Director, Office of Hearings and Appeals, within thirty days of receipt of the initial decision. In the absence of exceptions, the Director, Office of Hearings and Appeals, on his own motion within forty-five days after the initial decision, may notify the applicant or recipient that he will review the decision. In the absence of exceptions or a notice of review, the initial decision shall constitute the final decision subject to the approval of the Secretary pursuant to paragraph (f) of this section.

(c) *Decisions by the Director, Office of Hearings and Appeals.* Whenever the Director, Office of Hearings and Appeals, reviews the decision of a hearing examiner pursuant to paragraph (b) of this section, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contention, and a copy of the final decision of the Director, Office of Hearings and Appeals, shall be given to the applicant or recipient and to the complainant, if any.

(d) *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 Director, Office of Hearings and Appeals 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.

(e) *Rulings required.* Each decision of a hearing examiner or the Director, Office of Hearings and Appeals, 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.

(f) *Approval by Secretary.* Any final decision of a hearing examiner or of the Director, Office of Hearings and Appeals, 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 of the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(g) *Content of decisions.* The final decision may provide for the 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 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 regulation, or to have otherwise failed to comply with this part, unless and until it corrects its non-compliance and satisfies the Secretary that it will fully comply with this part.

(h) *Post termination proceedings.* (I) An applicant or recipient adversely affected by an order issued under paragraph (g) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (g) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance.

(3) If the Secretary denies any such request, the applicant or recipient may submit to the Secretary a request for a hearing in writing, specifying why it believes the Secretary to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with the procedures set forth in Part 17a of this Title. The applicant or recipient shall be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph.

(4) While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (g) of this section shall remain in effect.

§ 17.11 [Amended]

19. Subparagraph (1) in the second sentence of paragraph (a) of § 17.11 is amended to read, "(1) Executive Orders 10925, 11114 and 11246, as amended, and regulations issued thereunder."

20. In paragraph (b) of § 17.11, the phrase "The Secretary or his designee" is substituted for the phrase "The head of each bureau and office administering Federal financial assistance."

21. Paragraph (c) of § 17.11 is revised by addition of the following as a final sentence: Any action taken, determination made or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the Secretary of the Interior.

22. Section 17.12 is revised by amending paragraph (c) and adding paragraph (k) to read as follows:

§ 17.12 Definitions.

(c) The term "Secretary" means the Secretary of the Interior or, except in § 17.9(f), any person to whom he has

delegated his authority in the matter concerned.

(k) The term "Office of Hearings and Appeals" refers to a constituent office of the Department established July 1, 1970, 35 FR 12081 (1970).

23. In Appendix A, part I(b), item 7 is deleted and item 8 through 21 are redesignated as items 7 through 20.

24. In Appendix A, part III, item 3 is added to read as follows:

3. Sealing and filling of voids in abandoned coal mines, reclamation of surface mine areas, and extinguishing mine fires (79 Stat. 13, as amended, 40 U.S.C., App., § 205).

25. In paragraph (a) of part IV in Appendix A, the heading is amended and items 5 and 7 are revised to read as follows:

(a) Grants of Federal funds.

5. Anadromous Fish Act of 1965 (79 Stat. 1125, 16 U.S.C. 757a-757f).

7. Jellyfish Act of 1966 (80 Stat. 1149, 16 U.S.C. 1201-1205).

26. Items 2 and 3 are deleted from paragraph (b) of part IV in Appendix A and items 4 through 6 are redesignated as items 2 through 4.

27. Items 1, 4 and 5 are deleted from paragraph (c) of part IV in Appendix A and items 2, 3, and 6 are redesignated as items 1, 2 and 3.

28. Item 3 in paragraph (a) of section V in Appendix A is revised and item 9 is added in the same paragraph, to read as follows:

3. Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. § 47a).

9. Outdoor Recreation Programs (78 Stat. 897, as amended, 16 U.S.C. §§ 4601-4601-11).

29. Any rule, order, policy, guideline, finding, determination, authorization, requirement, designation or other action prescribed, issued or taken before the effective date of these amendments under Part 17 shall have the same effect as if these amendments to Part 17 had not been made. No administrative proceeding shall abate by reasons of the taking effect of these amendments. Administrative proceedings initiated under Part 17 prior to these amendments and not finally disposed of prior to such effective date shall be governed by the provisions of Part 17 as amended. In any case under Part 17 where a hearing examiner had rendered an initial or recommended decision, the case shall be concluded in accordance with the provisions of Part 17 as amended.

30. These amendments shall be effective on July 5, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc. 73-13287 Filed 7-3-73; 8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Miscellaneous Amendments

Amendments to 45 CFR Part 80 are adopted for the purposes indicated below. Revisions similar to those described below (except for revisions described in items numbered 12-14) are uniform changes being adopted by other agencies which provide Federal financial assistance, pursuant to Title VI of the Civil Rights Act of 1964. The revisions described under items 12-14 below are not uniform; they are procedural in nature and designed for the regulation of this agency only. In addition, citations to statutory authority are added immediately after each section of 45 CFR Part 80.

1. A new subparagraph (1) (vii) is added to § 80.3(b) to prohibit discrimination in the selection of persons to planning or advisory bodies.

2. The present subparagraphs (3) and (4) of § 80.3(b) are renumbered (4) and (5), respectively, and a new subparagraph (3) is added to clarify nondiscrimination requirements with respect to the selection of sites and locations for facilities which affect the provision of federally-assisted benefits.

3. A new § 80.3(b) (6) is added as (i) to require recipients to take affirmative action to overcome the effects of prior discrimination, where the recipient has previously discriminated and as (ii) to indicate recipients are not prohibited from taking affirmative action to overcome the effects of conditions which resulted in limited program participation by persons of a particular race, color, or national origin.

4. A subparagraph is added to § 80.3(c) to state the rule concerning discriminatory employment practices which result in excluding individuals from participation in, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this regulation applies.

5. Subparagraph (b) under § 80.3(c) relating to community work and training assisted under Title IV of the Social Security Act, 42 U.S.C. 609, is deleted.

6. Subparagraph (d) (formerly (e)) of § 80.3(c) is changed to read "rehabilitation facilities" instead of "sheltered workshops."

7. Section 80.4(a)(2) is revised to delete the requirement that surplus property transfers contain a reverter for breach of the nondiscrimination provisions and instead to authorize a reverter discretionary with the responsible department official in the case of any real

property transfer. As revised, a covenant running with the land, to assure non-discriminatory use, will be included when any Federal financial assistance is extended in the form of a transfer of real property by the Federal Government. In other cases where property is acquired or improved with Federal financial assistance, the amendment requires that the recipient agree to include such a covenant in any subsequent transfer.

8. Language of § 80.4(b) which provided that noncomplying features of existing continuing State programs could be corrected in the future has been deleted.

9. In § 80.6(b) a new sentence is added after the first sentence to require recipients to keep racial and ethnic data in relation to federally-assisted programs.

10. In § 80.6(c) new language is added after the last sentence to make clear that asserted considerations of privacy or confidentiality may not operate to bar the Department from requiring recipients to keep such data.

11. In § 80.7(b) the period for filing complaints is extended from 90 to 180 days in conformity with other Civil Rights regulations.

12. Section 80.9(a) provided that in the case of a waiver of a right to a hearing the decision may be made on the basis of "such information as is available." This is amended to provide that the decision in such a case may be made on the basis of "such information as may be filed as the record."

13. Under § 80.10, prior to the present amendment, a party to a proceedings could request the Secretary to review a hearing examiner's decision even though there was no request for the intervening review of the Reviewing Authority, which is a matter of right. The amendment to § 80.10(c) authorizes a request for review by the Secretary only if the matter has first been considered by the Reviewing Authority.

14. Subparagraph (4) of § 80.10(g) duplicates the provision of the last sentence of subparagraph (3) of such section. Subparagraph (4) is deleted to eliminate that inadvertent duplication.

15. A sentence is added to § 80.12(c) specifying that actions taken by an official of another Department or Agency under an assignment of responsibility shall have the same effect as though taken by the responsible official of this Department.

16. In some provisions the word "program" has been used to refer to the arrangement under which Federal financial assistance is made available; in other places it was used to mean the operation or activity of the applicant or recipient. Technical revisions are made in the designation of Part 80 and throughout the regulation to eliminate the use of "program" to refer to the arrangement under which Federal financial assistance is made available.

17. Clause 3 is added to § 80.12(a) to make clear that these regulations and amendments will not affect the requirements for Emergency School Assistance

as published in 35 FR 13442 and codified as 45 CFR Part 181.

18. The listing of Appendix A is revised to eliminate the use "program" to refer to the arrangement under which Federal financial assistance is made available and to bring the listings in the Appendix up to date.

1. The designation of Part 80 is amended to read as set forth in the heading above.

2. Section 80.2 is amended to read:

§ 80.2 Application of this regulation.

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

(Secs. 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d-1, 2000d-3)

3. Section 80.3 is amended by adding a new paragraph (b) (1) (vii) as set forth below. Paragraph (b) is amended by renumbering the present subparagraphs (3) and (4) as subparagraphs (4) and (5), respectively, and adding new subparagraphs (3) and (6). As so changed, subparagraphs (3), (4), (5) and (6) read as set forth below. Paragraphs (c) and (d) are amended to read as set forth below.

§ 80.3 Discrimination prohibited.

(b) Specific discriminatory actions prohibited. (1) * * *

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(3) In determining the site or location of a facilities, an applicant or recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which this regulation applies, on the ground of race, color, or

national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) 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 benefits provided in or through a facility provided with the aid of Federal financial assistance.

(5) 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.

(6) (i) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.

(c) *Employment practices.* (1) 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 (i) to reduce the employment 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 handicaps cannot be readily absorbed in the competitive labor market. The following, under existing laws, have one of the above objectives as a primary objective:

(a) Projects under the Public Works Acceleration Act, Public Law 87-658, 42 U.S.C. 2641-2643.

(b) Work-study under the Vocational Education Act of 1963, as amended, 20 U.S.C. 1371-1374.

(c) Programs assisted under laws 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.

(d) Assistance to rehabilitation facilities under the Vocational Rehabilitation Act, 29 U.S.C. 32-34, 41a and 41b.

(2) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the foregoing provisions of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(d) *Indian Health and Cuban Refugee Services.* 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.

4. Section § 80.4(a)(2), (b), and (d) is amended to read as follows:

§ 80.4 Assurances required.

(a) *General.* (1) * * *

(2) Where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government the instrument effecting or recording the transfer shall contain a covenant running with the land to assure nondiscrimination for 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. Where no transfer of property is involved but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant to any subsequent transfer of the property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. 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 responsible Department official may agree, upon request of the transferee and if neces-

sary 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 regulation applies (including the Federal financial assistance 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 regulation, 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 regulation.

(d) *Assurance 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 special training project, for student loans 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.

5. The introductory statement of § 80.5 and paragraphs (a), (b), (e) and (h) are amended to read as set forth below; and new paragraphs (i) and (j) are added as illustrative examples of new § 80.3 (b) (6).

§ 80.5 Illustrative application.

The following examples will illustrate the programs aided by Federal financial assistance 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 regulation, as a condition of the receipt of Federal financial assistance).

(a) In Federally assisted programs for 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 federally-affected area assistance (P.L. 815 and P.L. 874) for construction aid and for general support of the operation of elementary or secondary schools, or in 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.

(e) In grants 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 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.

(h) A recipient may not take action that is calculated to bring about indirectly what this regulation 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 accomplishments of the objectives of the Federal assistance as respects individuals of a particular race, color or national origin.

(i) In some situations, even though past discriminatory practices attributable to a recipient or applicant have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient

under § 80.6(d), to provide information as to the availability of the program or activity and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary under the requirement stated in (i) of § 80.3(b) (6) for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subject to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served.

(j) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

6. Paragraphs (b), (c), and (d) of § 80.6 are amended to read:

§ 80.6 Compliance information.

(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. For example, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in federally-assisted programs. 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. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this Part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

(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 regulation and its applicability to the program for 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 regulation.

§ 80.7 [Amended]

7. Paragraph (b) of § 80.7 is amended by deleting the phrase "90 days" and substituting "180 days".

8. Paragraph (a) of § 80.9 is amended to read:

§ 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 of 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 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 § 80.3(c) of this regulation and consent to the making of a decision on the basis of such information as may be filed as the record.

9. Paragraphs (e) and (f) of § 80.10 are amended to read as set forth below, and paragraph (g)(4) is deleted.

§ 80.10 Decisions and notices.

(e) *Review in certain cases by the Secretary.* If the Secretary has not personally made the final decision referred to in paragraphs (a), (b), or (c) of this section, a recipient or applicant or the counsel for the Department may request the Secretary to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible Department official. Such review is not a matter of right and shall be granted only where the Secretary determines there are special and important reasons therefor. The Secretary may grant or deny such request, in whole or in part. He may also review such a decision upon his own motion in accordance with rules of procedure issued by the responsible Department official. In the absence of a review under this paragraph, a final decision referred to in paragraphs (a), (b), (c) of this section shall become the final decision of the Department when the Secretary transmits it as such to Congressional committees with the report required under section 602 of the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(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, to which this regulation applies, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended under such law or laws 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 regulation unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this regulation.

10. Paragraph (a) of § 80.12 is amended, and a new concluding sentence is added to paragraph (c), so that the amended paragraph reads as set forth below.

§ 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 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 assistance for failure to comply with

such requirements, are hereby superseded to the extent that such discrimination is prohibited by this regulation, except that nothing in this regulation 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) The "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education and Welfare, and of Labor, 45 CFR Part 70; (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 regulation is inapplicable, or prohibit discrimination on any other ground; or (3) requirements for Emergency School Assistance as published in 35 FR 13442 and codified as 45 CFR Part 181.

(c) *Supervision and coordination.* The responsible Department official 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 regulation (other than responsibility for review as provided in § 80.10(e)), including the achievements 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 regulation to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Department.

11. The following citations are added immediately after each of the listed sections of 45 CFR Part 80 as indicated below:

- § 80.1: (Sec. 601, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d).
- § 80.2: (Sec. 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d-1, 2000d-3).
- § 80.3: (Sec. 601, 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253, 42 U.S.C. 2000d, 2000d-1, 2000d-3).
- § 80.4: (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1, Sec. 182; 80 Stat. 1209; 42 U.S.C. 2000d-5).
- § 80.5: (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1).
- § 80.6: (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1).
- § 80.7: (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1).

- § 80.8: (Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1, Sec. 182, 80 Stat. 1209; 42 U.S.C. 2000d-5).
- § 80.9: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d-1).
- § 80.10: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252, 42 U.S.C. 2000d-1).
- § 80.11: (Sec. 603, Civil Rights Act of 1964; 78 Stat. 253; 42 U.S.C. 2000d-2).
- § 80.12: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d-1).
- § 80.13: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d-1).

Effective date. This amendment shall become effective August 6, 1973.

Dated: August 8, 1972.

[SEAL] ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE TO WHICH THESE REGULATIONS APPLY

Part 1. Assistance other than for State-Administered Continuing Programs

1. Loans for acquisition of equipment for academic subjects, and for minor remodeling (20 U.S.C. 445).
2. Construction of facilities for institutions of higher education (20 U.S.C. 701-758).
3. School construction in federally-affected and in major disaster areas (20 U.S.C. 631-647).
4. Construction of educational broadcast facilities (47 U.S.C. 390-399).
5. Loan service of captioned films and educational media; research on, and production and distribution of, educational media for the handicapped, and training of persons in the use of such media for the handicapped (20 U.S.C. 1452).
6. Demonstration residential vocational education schools (20 U.S.C. 1321).
7. Research and related activities in education of handicapped children (20 U.S.C. 1441).
8. Educational research, dissemination and demonstration projects; research training; and construction under the Cooperation Research Act (20 U.S.C. 331-332(b)).
9. Research in teaching modern foreign languages (20 U.S.C. 512).
10. Training projects for manpower development and training (42 U.S.C. 2601, 2602, 2610a-2610c).
11. Research and training projects in Vocational Education (20 U.S.C. 1281(a), 1282-1284).
12. Allowances to institutions training NDEA graduate fellows (20 U.S.C. 461-465).
13. Grants for training in librarianship (20 U.S.C. 1031-1033).
14. Grants for training personnel for the education of handicapped children (20 U.S.C. 1431).
15. Allowances for institutions training teachers and related educational personnel in elementary and secondary education, or post-secondary vocational education (20 U.S.C. 1111-1118).
16. Recruitment, enrollment, training and assignment of Teacher Corps personnel (20 U.S.C. 1101-1107a).
17. Operation and maintenance of schools in Federally-affected and in major disaster areas (20 U.S.C. 236-241; 241-1; 242-244).
18. Grants or contracts for the operation of training institutes for elementary or secondary school personnel to deal with special educational problems occasioned by desegregation (42 U.S.C. 2000c-3).
19. Grants for in-service training of teachers and other schools personnel and employ-

- ment of specialists in desegregation problems (42 U.S.C. 2000c-4).
- 20. Higher education students loan program (Title II, National Defense Education Act, 20 U.S.C. 421-429).
- 21. Educational Opportunity grants and assistance for State and private programs of low-interest insured loans and State loans to students in institutions of higher education (Title IV, Higher Education Act of 1965, 20 U.S.C. 1061-1087).
- 22. Grants and contracts for the conduct of Talent Search, Upward Bound, and Special Services Programs (20 U.S.C. 1068).
- 23. Land-grant college aid (7 U.S.C. 301-308; 321-326; 328-331).
- 24. Language and area centers (Title VI, National Defense Education Act, 20 U.S.C. 511).
- 25. American Printing House for the Blind (20 U.S.C. 101-105).
- 26. Future Farmers of America (36 U.S.C. 271-391) and similar programs.
- 27. Science clubs (P.L. 85-875, 20 U.S.C. 2, note).
- 28. Howard University (20 U.S.C. 121-129).
- 29. Gallaudet College (31 D.C. Code, Ch. 10).
- 30. Establishment and operation of a model secondary school for the deaf by Gallaudet College (31 D.C. Code 1051-1053; 80 Stat. 1027-1028).
- 31. Faculty development programs, workshops and institutes (20 U.S.C. 1131-1132).
- 32. National Technical Institute for the Deaf (20 U.S.C. 681-685).
- 33. Institutes and other programs for training educational personnel (Parts D, E & F, Title V, Higher Education Act of 1965) (20 U.S.C. 1119-1119c-4).
- 34. Grants and contracts for research and demonstration projects in librarianship (20 U.S.C. 1034).
- 35. Acquisition of college library resources (20 U.S.C. 1021-1028).
- 36. Grants for strengthening developing institutions of higher education (20 U.S.C. 1051-1054); National Fellowships for teaching at developing institutions (20 U.S.C. 1055), and grants to retired professors to teach at developing institutions (20 U.S.C. 1056).
- 37. College Work-Study Program (42 U.S.C. 2751-2757).
- 38. Financial assistance for acquisition of higher education equipment, and minor remodeling (20 U.S.C. 1121-1129).
- 39. Grants for special experimental demonstration projects and teacher training in adult education (20 U.S.C. 1208).
- 40. Grant programs for advanced and undergraduate international studies (20 U.S.C. 1171-1176; 22 U.S.C. 2452(b)).
- 41. Experimental projects for developing State leadership or establishment of special services (20 U.S.C. 865).
- 42. Grants to and arrangements with State educational and other agencies to meet special educational needs of migratory children of migratory agricultural workers (20 U.S.C. 241e(c)).
- 43. Grants by the Commissioner of Education to local educational agencies for supplementary educational centers and services; guidance, counseling, and testing (20 U.S.C. 841-844; 844b).
- 44. Resource centers for improvement of education of handicapped children (20 U.S.C. 1421) and centers and services for deaf-blind children (20 U.S.C. 1422).
- 45. Recruitment of personnel and dissemination of information on education of handicapped (20 U.S.C. 1433).
- 46. Grants for research and demonstrations relating to physical education or recreation for handicapped children (20 U.S.C.

1442) and training of physical educators and recreation personnel (20 U.S.C. 1434).

47. Dropout prevention projects (20 U.S.C. 887).

48. Bilingual education programs (20 U.S.C. 880b-880b-6).

49. Grants to agencies and organizations for Cuban refugees (22 U.S.C. 2601(b)(4)).

50. Grants and contracts for special programs for children with specific learning disabilities including research and related activities, training and operating model centers (20 U.S.C. 1461).

51. Curriculum development in vocational and technical education (20 U.S.C. 1391).

52. Establishment, including construction, and operation of a National Center on Educational Media and Materials for the Handicapped (20 U.S.C. 1453).

53. Grants and contracts for the development and operation of experimental preschool and early education programs for handicapped (20 U.S.C. 1423).

54. Grants to public or private non-profit agencies to carry on the Follow Through Program in kindergarten and elementary schools (42 U.S.C. 2809 (a) (2)).

55. Grants for programs of cooperative education and grants and contracts for training and research in cooperative education (20 U.S.C. 1087a-1087c).

56. Grants and contracts to encourage the sharing of college facilities and resources (network for knowledge) (20 U.S.C. 1133-1133b).

57. Grants, contracts, and fellowships to improve programs preparing persons for public service and to attract students to public service (20 U.S.C. 1134-1134b).

58. Grants for the improvement of graduate programs (20 U.S.C. 1135-1135b).

59. Contracts for expanding and improving law school clinical experience programs (20 U.S.C. 1136-1136b).

60. Exemplary programs and projects in vocational education (20 U.S.C. 1301-1305).

61. Grants to reduce borrowing cost for construction of residential schools and dormitories (20 U.S.C. 1323).

62. Project grants and contracts for research and demonstration relating to new or improved health facilities and services (sec. 304, PHS Act, 42 U.S.C. 242b).

63. Grants for construction or modernization of emergency rooms of general hospitals (Title VI, Part C, PHS Act, 42 U.S.C. 291j).

64. Institutional and special projects grants to schools of nursing (sections 805-808, PHS Act, 42 U.S.C. 296d-296g).

65. Grants for construction and initial staffing of facilities for prevention and treatment of alcoholism (sec. 241-2, Community Mental Health Centers Act (42 U.S.C. 2688 f and g)).

66. Grants for construction and initial staffing of specialized facilities for the treatment of alcoholics requiring care in such facilities (sec. 243, Community Mental Health Centers Act, 42 U.S.C. 2688h).

67. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of alcoholics (sec. 246, Community Mental Health Centers Act, 42 U.S.C. 2688j-1).

68. Grants for construction and initial staff of treatment facilities for narcotic addicts (sec. 251, Community Mental Health Centers Act, 42 U.S.C. 2688m).

69. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of narcotics addicts (sec. 252, Community Mental Health Centers Act, 42 U.S.C. 2688n-1).

70. Grants for consultation services for Community Mental Health Centers, alcoholism prevention and treatment facilities for

narcotic addicts, and facilities for mental health of children (sec. 264, Community Mental Health Centers Act, 42 U.S.C. 2688r).

71. Grants for construction and initial staff of facilities for mental health of children (sec. 271, Community Mental Health Centers Act, 42 U.S.C. 2688u).

72. Special project grants for training programs and evaluation of existing treatment program relating to mental health of children (sec. 272, Community Mental Health Centers Act, 42 U.S.C. 2688x).

73. Grants and loans for construction and modernization of medical facilities in the District of Columbia (P.L. 90-457; 82 Stat. 631-3).

74. Teaching facilities for nurse training (secs. 801-804, Public Health Service Act, 42 U.S.C. 296-296c).

75. Teaching facilities for allied health professions personnel (sec. 791, Public Health Service Act, 42 U.S.C. 295h).

76. Mental retardation research facilities (Title VI, Part D, Public Health Service Act, 42 U.S.C. 295-395e).

77. George Washington University Hospital construction (76 Stat. 83, P.L. 87-460, May 31, 1962).

78. Research projects, including conferences, communication activities and primate or other center grants (secs. 301, 303, 304, and 308, Public Health Service Act, 42 U.S.C. 241, 242a, 242b, and 242f).

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

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

81. Migratory workers health services (sec. 310, Public Health Service Act, 42 U.S.C. 242h).

82. Immunization programs (sec. 317, Public Health Service Act, 42 U.S.C. 247b).

83. Health research training projects and fellowship grants (secs. 301, 433, Public Health Service Act, 42 U.S.C. 242, 289c).

84. Categorical (heart, cancer, etc.) grants for training, traineeships or fellowships (secs. 303, 433, etc., Public Health Service Act, 42 U.S.C. 242a, 289c, etc.).

85. Advanced professional nurse traineeships (sec. 821, Public Health Service Act, 42 U.S.C. 297).

86. Department projects under Appalachian Regional Development Act (40 U.S.C. App. A).

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

88. Grants for graduate or specialized training in public health (sec. 309, Public Health Service Act, 42 U.S.C. 242g).

89. Health professions school student loan program (Title VII, Part C, Public Health Service Act, 52 U.S.C. 294-294(k)).

90. Grants for provision in schools of public health of training, consultation and technical assistance in the field of public health and in the administration of state or local public health programs (sec. 309(c)), Public Health Service Act, 42 U.S.C. 242(g) (c)).

91. Project grants for training, studies, or demonstrations looking metropolitan area, or other local area plans for health services (sec. 314(c), Public Health Service Act, 42 U.S.C. 246(c)).

92. Project grants for training, studies, or demonstrations looking toward the development of improved comprehensive health planning (sec. 314(c), Public Health Service Act, 42 U.S.C. 246(c)).

93. Project grants for health services development (sec. 314(e), Public Health Service Act, 42 U.S.C. 246(e)).

94. Institutional and special grants to health professions schools (Title VII, Part E, Public Health Service Act, 42 U.S.C. 295f-295f-4).

95. Improvement grants to centers for allied health professions (sec. 792, Public Health Service Act, 42 U.S.C. 295h-1).

96. Scholarship grants to health professions schools (Title VII, Part F, Public Health Service Act, 42 U.S.C. 295h-1).

97. Scholarship grants to schools of nursing (Title VIII, Part D, Public Health Service Act, 42 U.S.C. 298c-298c-6).

98. Traineeships for advanced training of allied health professions personnel (sec. 793, Public Health Service Act, 42 U.S.C. 295h-2).

99. Contracts to encourage full utilization of nursing educational talent (sec. 868, Public Health Service Act, 42 U.S.C. 298c-7).

100. Grants to community mental health centers for the compensation of professional and technical personnel for the initial operation of new centers or of new services in centers (Community Mental Health Centers Act, Part B, 42 U.S.C. 2688-2688d).

101. Grants for the planning, construction, equipment and operation of multicounty demonstration health projects in the Appalachian region (sec. 202 of Appalachian Regional Development Act, P.L. 89-4, as amended, P.L. 90-103 40 U.S.C. App. 202).

102. Education, research, training, and demonstrations in the fields of heart disease, cancer, stroke and related diseases (secs. 900-110, Public Health Service Act, 42 U.S.C. 299a-j).

103. Assistance to medical libraries (secs. 390-399, Public Health Service Act, 42 U.S.C. 280b-280b-9).

104. Nursing student loans (secs. 822-828, Public Health Service Act, 42 U.S.C. 297a-g).

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

106. Heart disease laboratories and related facilities for patient care (sec. 412(d), Public Health Service Act, 42 U.S.C. 287a(d)).

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

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

109. Research projects relating to maternal and child health services and crippled children's services (42 U.S.C. 712).

110. Maternal and child health special project grants to State agencies and institutions of higher learning (42 U.S.C. 703(2)).

111. Maternity and infant care and family planning services; special project grants to local health agencies and other organizations (42 U.S.C. 708).

112. Special project grants to State agencies and institutions of higher learning for crippled children's services (42 U.S.C. 704(2)).

113. Special project grants for health of school and preschool children (42 U.S.C. 709) and for dental health of children (42 U.S.C. 710).

114. Grants to institutions of higher learning for training personnel for health care and related services for mothers and children (42 U.S.C. 711).

115. Grants and contracts for the conduct of research, experiments, or demonstrations relating to the development, utilization, quality, organization, and financing of services, facilities, and resources of hospitals, long-term care facilities, or other medical facilities (sec. 304, Public Health Service Act, as amended by P.L. 90-174, 42 U.S.C. 242b).

116. Health research facilities (Title VII Part A, Public Health Service Act, 42 U.S.C. 292-292j).

117. Teaching facilities for health professions personnel (Title VII, Part B, Public Health Service Act, 42 U.S.C. 293-293h).

118. Project grants and contracts for research, development, training, and studies in the field of electronic product radiation (Sec. 356, Public Health Service Act, 42 U.S.C. 263d).

119. Project grants and contracts for research, studies, demonstrations, training,

and education relating to coal mine health (sec. 501, Federal Coal Mine Health and Safety Act of 1969, Public Law 91-173).

120. Surplus real and related personal property disposal (40 U.S.C. 484(k)).

121. Supplementary medical insurance benefits for the aged (Title XXIII, Part B, Social Security Act, 42 U.S.C. 1395j-1395w).

122. Issuance of rent-free permits for vending stands, credit unions, employee associations, etc. (20 U.S.C. 107-107f; 45 C.F.R. Part 20; sec. 25, 12 U.S.C. 1770).

123. Grants for special vocational rehabilitation projects (29 U.S.C. 34(a)(1)).

124. Experimental, pilot or demonstration projects to promote the objectives of Title I, X, XIV, XVI, or XIX or Part A of Title IV of the Social Security Act (42 U.S.C. 1315).

125. Social Security and welfare cooperative research or demonstration projects (42 U.S.C. 1310).

126. Child welfare research, training, or demonstration projects (42 U.S.C. 626).

127. Training projects (Title VI, Older Americans Act, 42 U.S.C. 3041-3042).

128. Grants for expansion of vocational rehabilitation services (29 U.S.C. 34(a)(2)(A)).

129. Grants for construction of rehabilitation facilities (29 U.S.C. 41a(a)-(e)) and for initial staffing of rehabilitation facilities (29 U.S.C. 41a(f)).

130. Project development grants for rehabilitation facilities (29 U.S.C. 41a(g)(2)).

131. Rehabilitation Facility Improvement grants (29 U.S.C. 41b(b)).

132. Agreement for the establishment and operation of a national center for deaf-blind youths and adults (29 U.S.C. 42a).

133. Project grants for services for migratory agricultural workers (29 U.S.C. 42b).

134. Grants for initial staffing of community mental retardation facilities (42 U.S.C. 2678-2678d).

135. Grants for training welfare personnel and for expansion and development of undergraduate and graduate social work programs (42 U.S.C. 906, 908).

136. Research and development projects concerning older Americans (42 U.S.C. 3031-3032).

137. Grants to States for training of nursing home administrators (42 U.S.C. 1396g(e)).

138. Contracts or jointly financed cooperative arrangements with industry (29 U.S.C. 34(a)(2)(B)).

139. Project grants for new careers in rehabilitation (29 U.S.C. 34(a)(2)(C)).

140. Children of low-income families (20 U.S.C. 241a-241m).

141. Grants for training (29 U.S.C. 37(a)(2)).

142. Grants for projects for training services (29 U.S.C. 41b(a)).

143. Grants for comprehensive juvenile delinquency planning (42 U.S.C. 3811).

144. Grants for project planning in juvenile delinquency (42 U.S.C. 3812).

145. Grants for juvenile delinquency rehabilitative services projects (42 U.S.C. 3822, 3842).

146. Grants for juvenile delinquency preventive service projects (42 U.S.C. 3861).

147. Grants for training projects in juvenile delinquency fields (42 U.S.C. 3861).

148. Grants for development of improved techniques and practices in juvenile delinquency services (42 U.S.C. 3871).

149. Grants for technical assistance in juvenile delinquency services (42 U.S.C. 3872).

150. Grants for State technical assistance to local units in juvenile delinquency services (42 U.S.C. 3873).

151. Grants for public service centers projects (42 U.S.C. 2744).

152. Grants to public or private non-profit agencies to carry on the Project Headstart Program (42 U.S.C. 2809(a)(1)).

153. Project grants for new careers for the handicapped (29 U.S.C. 34(a)(2)(D)).

154. Construction, demonstration, and training grants for university-affiliated facilities for persons with developmental disabilities (42 U.S.C. 2661-2668).

Part 2. Continuing Assistance to State Administered Programs

1. Grants to States for public library services and construction, interlibrary cooperation and specialized State library services for certain State institutions and the physically handicapped (20 U.S.C. 351-355).

2. Grants to States for strengthening instruction in academic subjects (20 U.S.C. 441-444).

3. Grants to States for vocational education (20 U.S.C. 1241-1294).

4. Arrangements with State education agencies for training under the Manpower Development and Training Act (42 U.S.C. 2601-2602, 2610a).

5. Grants to States to assist in the elementary and secondary education of children of low-income families (20 U.S.C. 241a-241m).

6. Grants to States to provide for school library resources, textbooks and other instructional materials for pupils and teachers in elementary and secondary schools (20 U.S.C. 821-827).

7. Grants to States to strengthen State departments of education (20 U.S.C. 861-870).

8. Grants to States for community service programs (20 U.S.C. 1001-1011).

9. Grants to States for adult basic education and related research, teacher training and special projects (20 U.S.C. 1201-1211).

10. Grants to State educational agencies for supplementary educational centers and services, and guidance, counseling and testing (20 U.S.C. 841-847).

11. Grants to States for research and training in vocational education (20 U.S.C. 1281(b)).

12. Grants to States for exemplary programs and projects in vocational education (20 U.S.C. 1301-1305).

13. Grants to States for residential vocational education schools (20 U.S.C. 1321).

14. Grants to States for consumer and homemaking education (20 U.S.C. 1341).

15. Grants to States for cooperative vocational education program (20 U.S.C. 1351-1355).

16. Grants to States for vocational work-study programs (20 U.S.C. 1371-1374).

17. Grants to States to attract and qualify teachers to meet critical teaching shortages (20 U.S.C. 1108-1110c).

18. Grants to States for education of handicapped children (20 U.S.C. 1411-1414).

19. Grants for administration of State plans and for comprehensive planning to determine construction needs of institutions of higher education (20 U.S.C. 715(b)).

20. Grants to States for comprehensive health planning (sec. 314(a), Public Health Service Act, 42 U.S.C. 246(a)).

21. Grants to States for establishing and maintaining adequate public health services (sec. 314(d), Public Health Service Act, 42 U.S.C. 246(d)).

22. Grants, loans, and loan guarantees with interest subsidies for hospital and medical facilities (Title VI, Public Health Service Act, 42 U.S.C. 291 et seq.).

23. Grants to States for community mental health centers construction (Community Mental Health Centers Act, Part A, 42 U.S.C. 2681-2687).

24. Cost of rehabilitation services (Title

II, Social Security Act sec. 222(d); 42 U.S.C. 422(d)).

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

26. Grants for State and community programs on aging (Title III, Older Americans Act, 42 U.S.C. 3021-3025).

27. Grants to States for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities (42 U.S.C. 2670-2677c).

28. Grants to States for vocational rehabilitation services (29 U.S.C. 32); for innovation of vocational rehabilitation services (29 U.S.C. 33); and for rehabilitation facilities planning (29 U.S.C. 41a(g)(1)).

29. Designation of State licensing agency for blind operators of vending stands (20 U.S.C. 107-107f).

30. Grants to States for old-age assistance (42 U.S.C. 301 et seq.); aid to families with dependent children (42 U.S.C. 601 et seq.); child-welfare services (42 U.S.C. 620 et seq.); aid to the blind (42 U.S.C. 1201 et seq.); aid to the permanently and totally disabled (42 U.S.C. 1351 et seq.); aid to the aged, blind, or disabled (42 U.S.C. 1381 et seq.); medical assistance (42 U.S.C. 1396 et seq.).

31. Grants to States for maternal and child health and crippled children's services (42 U.S.C. 701-707); for special projects for maternal and infant care (42 U.S.C. 708).

32. Grants to States for juvenile delinquency preventive and rehabilitative services (42 U.S.C. 3841).

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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

Miscellaneous Amendments

1. Section 611.3 is amended as follows:

a. A new subparagraph (3) is added to paragraph (b), and existing subparagraphs (3) and (4) are to be renumbered (4) and (5).

b. A new subparagraph (6) is added to paragraph (b).

c. Paragraph (c) (3) is revised to read as follows.

d. New paragraph (c) (4) is added.

As amended, § 611.3 reads as follows:

§ 611.3 Discrimination prohibited.

• • • • •

(b) • • • • •
(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

• • • • •

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments