

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (g)(1), (2), or (3) of this section.

(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, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.

(i) The term *Secretary* means the Secretary of Labor or any person specifically 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.

(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.

[29 FR 16284, Dec. 4, 1964, as amended at 68 FR 51366 and 51367, Aug. 26, 2003]

§ 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 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.

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

(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

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

(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 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 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.

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

(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 shall take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color or national origin.

(7) The following will illustrate the application of the provisions of the foregoing paragraph to programs for which Federal financial assistance is furnished by this Department:

(i) In some situations even though past discriminatory practices 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 § 31.5(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 con-

sequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected 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.

(ii) 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 some 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 an employment service office 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.

(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, examination, appointment, training, promotion, retention or any other personnel action.

(2) 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 provision of the foregoing paragraph shall apply to the

employment practices of the recipient to the extent necessary to assure equality of opportunity to, and non-discriminatory treatment of, beneficiaries. Accordingly, the employment practices of recipients under programs enumerated in §§ 31.3(d)(2) and 31.3(d)(3) are subject to the provisions of this paragraph (c) to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, the beneficiaries of the Federal financial assistance. Any action taken by the Department pursuant to this provision with respect to a State or local agency subject to the Standards for a Merit System of Personnel Administration, 45 CFR part 70, shall be consistent with those standards and shall be coordinated with the United States Civil Service Commission.

(3) The requirements applicable to construction employment under any program for which Federal financial assistance is furnished by this Department shall be those specified in or pursuant to part III of Executive Order 11246 or any Executive order which supersedes it.

(d) In order that all parties may have a clear understanding of the applicability of the regulations in this part to their activities, there are listed in this section types of Federal financial assistance together with illustrations by way of example only, of types of activity covered by the regulations in this part. These illustrations and examples, however, are not intended to be all inclusive. The fact that a particular type of Federal financial assistance is not listed does not, of course, indicate that it is not covered by the regulations in this part. Moreover, the examples set forth with respect to any particular listed type of Federal financial assistance are not limited to assistance alone and the prohibited actions described may also be prohibited in programs or activities receiving other types of Federal financial assistance whether or not listed below.

(1) *Employment service.* (i) 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.

(ii) 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.

(2) *Manpower Development and Training Act, work-incentive under Social Security Act, Area Redevelopment Act, work-training under Economic Opportunity Act and other Government-sponsored training.* (i) 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 be furnished without discrimination because of race, color, or national origin.

(ii) The recruitment, examination, appointment, training, promotion, retention, or any other personnel action with respect to any trainee or enrollee under the Manpower Development and Training Act, Area Redevelopment Act, or the Economic Opportunity Act while the individual is receiving training or employment shall be without regard to race, color or national origin.

(3) *State and Federal Unemployment Insurance Programs; allowances under Trade Readjustment Assistance Programs, Manpower Development and Training Act, and Area Redevelopment Act.* (i) 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.

[29 FR 16284, Dec. 4, 1964, as amended at 38 FR 17957, July 5, 1973, as amended at 68 FR 51366 and 51367, Aug. 26, 2003; 68 FR 54268, Sept. 16, 2003]

§ 31.4 [Reserved]

§ 31.5 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