

does not pose increased risks. Part 1630 requires that decisions not based on risk classification be made in conformity with non-discrimination requirements. See Senate Report at 84-86; House Labor Report at 136-138; House Judiciary Report at 70-71. See the discussion of § 1630.5 Limiting, Segregating and Classifying.

[56 FR 35734, July 26, 1991, as amended at 65 FR 36327, June 8, 2000]

**PART 1640—PROCEDURES FOR COORDINATING THE INVESTIGATION OF COMPLAINTS OR CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY SUBJECT TO THE AMERICANS WITH DISABILITIES ACT AND SECTION 504 OF THE REHABILITATION ACT OF 1973**

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AUTHORITY: 5 U.S.C. 301; 29 U.S.C. 794(d); 42 U.S.C. 12117(b).

SOURCE: 59 FR 39904, 39908, Aug. 4, 1994, unless otherwise noted.

**§ 1640.1 Purpose and application.**

(a) This part establishes the procedures to be followed by the Federal agencies responsible for processing and resolving complaints or charges of employment discrimination filed against recipients of Federal financial assistance when jurisdiction exists under both section 504 and title I.

(b) This part also repeats the provisions established by 28 CFR 35.171 for

determining which Federal agency shall process and resolve complaints or charges of employment discrimination:

(1) That fall within the overlapping jurisdiction of titles I and II (but are not covered by section 504); and

(2) That are covered by title II, but not title I (whether or not they are also covered by section 504).

(c) This part also describes the procedures to be followed when a complaint or charge arising solely under section 504 or title I is filed with a section 504 agency or the EEOC.

(d) This part does not apply to complaints or charges against Federal contractors under section 503 of the Rehabilitation Act.

(e) This part does not create rights in any person or confer agency jurisdiction not created or conferred by the ADA or section 504 over any complaint or charge.

**§ 1640.2 Definitions.**

As used in this part, the term:

*Americans with Disabilities Act of 1990* or *ADA* means the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611).

*Assistant Attorney General* refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice, or his or her designee.

*Chairman of the Equal Employment Opportunity Commission* refers to the Chairman of the United States Equal Employment Opportunity Commission, or his or her designee.

*Civil Rights Division* means the Civil Rights Division of the United States Department of Justice.

*Designated agency* means any one of the eight agencies designated under § 35.190 of 28 CFR part 35 (the Department's title II regulation) to implement and enforce title II of the ADA with respect to the functional areas within their jurisdiction.

*Dual-filed complaint or charge* means a complaint or charge of employment discrimination that:

(1) Arises under both section 504 and title I;

(2) Has been filed with both a section 504 agency that has jurisdiction under section 504 and with the EEOC, which has jurisdiction under title I; and