

agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(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 (k)(1), (2), or (3) of this section.

(l) *Facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

[29 FR 16274, Dec. 4, 1964, as amended at 36 FR 3411, Feb. 24, 1971; 38 FR 17925, July 5, 1973; 68 FR 51340, 51341, Aug. 26, 2003]

§ 15.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the applicant or recipient to which these regulations apply. These regulations apply, but are not restricted, to unequal treatment in priority, quality, quantity, methods or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occu-

pancy or benefit of any structure, facility, or improvement.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which the regulations in this part apply 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 provisions of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(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.

(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

§ 15.3

7 CFR Subtitle A (1-1-05 Edition)

afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient 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 of its programs or activities to which the regulations in this part apply, 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 and the regulations in this part.

(4) As used in this section, the services, financial aid, or other benefit provided under a program or activity of an applicant or recipient receiving Federal financial assistance shall be deemed to include any and all services, financial aid, or other benefit provided in or through a facility provided or improved in whole or part with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in these regulations does not limit the applicability of the provisions of 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.* Where a primary objective of the Federal financial assistance to a program to which the

regulations in this part apply 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 the 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. This paragraph applies to programs where a primary objective of the Federal financial assistance is (1) to reduce unemployment, (2) to assist individuals in meeting expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience which contributes to education or training. Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulations in this part, tends, on the grounds 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 or activity of the applicant or recipient to which these regulations apply, the foregoing provisions of this § 15.3(c) shall apply to the employment practices of the recipient or other persons subject to these regulations, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or activity of the applicant or recipient shall be those specified in or pursuant to part III of Executive Order 11246 or any Executive order which supersedes it.

(d) *Examples.* 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 a program 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 that program alone and the prohibited actions described may also be prohibited in other programs or activities whether or not listed below.

(1) *Cooperative Agricultural Extension Program.* (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;

(ii) Discrimination in the use in any program or activity funded by the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvements; or

(iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by, or in which the Cooperative Extension Service participates.

(2) *Rural Electrification and Rural Telephone Programs.* (i) Refusal or failure by a borrower to accept applications for membership or applications to purchase shares of stock, or discrimination by a borrower in the terms and conditions of membership or stock ownership, where such membership or stock ownership is a condition prerequisite to the furnishing of electric or telephone service by the borrower, or to the receipt of any benefits or advantages related to such service;

(ii) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(iii) Denial by a borrower to any person of the benefits of improvement, expansion or upgrading, or discrimination by a borrower among consumers or subscribers in improving, expanding or upgrading, of electric or telephone service;

(iv) Discrimination by a borrower in respect of rates, or terms or conditions of, service among consumers or subscribers;

(v) Exclusion by a borrower of any member or stockholder, if the borrower is a cooperative or mutual type of corporation, from participation in any meeting of members or stockholders of the borrower, discrimination among its members or stockholders in respect of the exercise of any of their rights as members or stockholders, or in the manner of the exercise of such rights; or

(vi) Exclusion by a borrower of any consumer or subscriber from, denial by a borrower to any consumer or subscriber of the use of, or discrimination by a borrower against any consumer or subscriber in his use of, any of the borrower's facilities.

(3) *Direct Distribution Program.* (i) Exclusion of an otherwise eligible recipient agency (school, summer camp for children, institution, welfare agency or disaster organization) or person from participation in the Direct Distribution Program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the Program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in different meal periods or by different seating or serving or different food or different size portions by recipient agencies serving prepared meals containing donated foods.

(4) *National School Lunch Program.* (i) Discrimination by a State agency in the selection of schools to participate in the Program or in the assignment to schools of rates of reimbursement.

(ii) Exclusion of any child from participation in the Program.

(iii) Discrimination by school officials in the selection of children to receive free or reduced-price lunches.

(iv) Segregation of participating children in different lunch periods or different seating, and discrimination by serving different food or different size portions.

(v) Failure to offer free and reduced-price lunches, on an equitable basis in schools of a school district in which children are assigned to schools on the basis of race, color, or national origin.

§ 15.3

7 CFR Subtitle A (1-1-05 Edition)

(5) *Food Stamp Program.* (i) Discrimination by a State agency in certifying households as eligible for the Program.

(ii) Segregation or other discrimination in the manner in which or the times at which eligible households are issued food coupons.

(6) *Special Milk Program for Children.*

(i) Discrimination by a State agency in the selection of schools and child-care institutions to participate in the Program.

(ii) Discrimination by a State agency in the selection of needy schools to receive reimbursement for milk served free.

(iii) Discrimination by a State agency in the assignment of reimbursement rates to schools and child-care institutions or in the adjustment of such rates, or in fixing allowable distribution costs.

(iv) Exclusion of any child from participation in the Program and segregation of participating children in different serving periods or different places of service.

(v) Discrimination by school officials or child-care institutions in the selection of children to receive free milk.

(7) *Price Support Programs carried out through producer associations or cooperatives or through persons who are required to provide specified benefits to producers.*

(i) Denial of the benefits of price support for a producers commodity.

(ii) Denial of membership or stock ownership to any producer by any association or cooperative.

(iii) Discrimination among producers in the manner of making or paying any price support advances, loans, or payments.

(iv) Discrimination in the fees or charges collected from or in the net gains distributed to producers.

(v) Discrimination in the use of facilities and services generally made available to members or patrons under the Price Support Program.

(8) *Forest Service Programs.* (i) Refusal or failure by a recipient of a permit or lease to provide to any person the benefits from the use of land administered by the Forest Service, the resources therefrom, or improvements thereon.

(ii) Refusal or failure by any recipient to provide to any person the benefits from Federal payments based on a

share of the receipts from lands administered by the Forest Service.

(iii) Refusal or failure by any recipient to provide to any person the benefits from Federal assistance in cooperative programs for the protection, development, management, and use of forest resources.

(iv) Refusal or failure by any cooperator or other recipient to provide to any person the benefits from Federal assistance through grants or advances of funds for research.

(9) *Farmers Home Administration Programs—(i) Direct soil and water loans to association.* (a) A borrower's denial of, or discrimination in furnishing, services under a program or activity financed wholly or partially with the aid of the loan, as in the case of a water supply system.

(b) A borrower's denial of, or discrimination or segregation in permitting, the use of facilities which are part of a project financed wholly or partially with the aid of the loan, as in the case of a golf course, swimming pool, tennis courts, parking areas, lounges, dining rooms, and rest rooms of a recreation association.

(c) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a prerequisite to the participation in services furnished by, or the use of facilities of, the borrower which are financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such services or the use of such facilities.

(d) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(ii) *Direct senior citizens rental housing loans to private nonprofit corporations and consumer cooperatives.* (a) A borrower's exclusion of any person from,

discrimination in the terms and conditions of eligibility for, or discrimination against or segregation of any person in, the use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan.

(b) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a condition of eligibility for use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such housing or facilities.

(c) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or a borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(10) *Cooperative State Research Programs.* (i) Discrimination in making available information whether published or provided through public or private statement, correspondence, demonstration or field day.

(ii) Discrimination in participation in any Cooperative Research Program or project.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial research training benefits as a result of such employment.

[29 FR 16274, Dec. 4, 1964, as amended at 35 FR 18383, Dec. 3, 1970; 38 FR 17925, July 5, 1973; 68 FR 51341, Aug. 26, 2003]

§ 15.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to which these regulations apply, except an application 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 applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the Act and the regulations in this part. 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, 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 the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and 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 pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures, or improvements thereon, or interests therein, which was acquired through Federal financial assistance, or in the case 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 assuring non-discrimination 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, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is