

§ 18.516

18.514 is on the recipient of Federal financial assistance.

(Authority: 42 U.S.C. 6101-6107)

§ 18.516 Affirmative action by recipients.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(Authority: 42 U.S.C. 6101-6107)

RESPONSIBILITIES OF DEPARTMENT OF VETERANS AFFAIRS RECIPIENTS

§ 18.531 General responsibilities.

Each VA recipient must ensure that its programs or activities are in compliance with the Act and these regulations.

(Authority: 42 U.S.C. 6101-6107)

[50 FR 34133, Aug. 23, 1985, as amended at 68 FR 51372, Aug. 26, 2003]

§ 18.532 Notice of subrecipients.

Where a recipient passes on Federal financial assistance from VA to programs or activities of subrecipients, the recipient shall provide the subrecipients written notice of their obligations under the Act and these regulations with respect to such programs and activities.

(Approved by the Office of Management and Budget under control number 2900-0400)

(Authority: 42 U.S.C. 6101-6107)

[50 FR 34133, Aug. 23, 1985, as amended at 68 FR 51372, Aug. 26, 2003]

§ 18.533 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from VA shall sign a written assurance as specified by the Secretary that it will comply with the Act and these regulations.

(b) *Recipient assessment of age distinctions.* (1) As part of a compliance review under §18.541 or complaint investigation under §18.544, the Secretary may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation, in a manner specified by the responsible

38 CFR Ch. I (7-1-08 Edition)

agency official, of any age distinction imposed in its programs or activities receiving Federal financial assistance from VA to assess the recipient's compliance with the Act.

(2) Whenever an assessment indicates a violation of the Act or these regulations, the recipient shall take corrective action.

(Authority: 42 U.S.C. 6101-6107)

§ 18.534 Information requirements.

Each recipient shall:

(a) Make available upon request to VA information necessary to determine whether the recipient is complying with the Act and these regulations.

(b) Permit reasonable access by VA to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with the Act and these regulations.

(Authority: 42 U.S.C. 6101-6107)

INVESTIGATION, CONCILIATION, AND ENFORCEMENT PROCEDURES

§ 18.541 Compliance reviews.

(a) VA may conduct compliance reviews and preaward reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. VA may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or preaward review indicates a violation of the Act or these regulations, VA will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, VA may institute enforcement proceedings as described in §18.546.

(Authority: 42 U.S.C. 6101-6107)

§ 18.542 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with VA alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1,

1979. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, VA may extend this time limit. Complaints may be submitted to the Director, Office of Equal Opportunity (06B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

(b) VA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Acknowledging receipt and acceptance of a complaint in writing.

(2) Accepting as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(3) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(4) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(5) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(6) Notifying the complainant and the recipient (or their representatives) of their right to contact VA for information and assistance regarding the complaint resolution process.

(c) VA will refer a complaint of discrimination based on age to another appropriate Federal agency when the complaint is outside the jurisdiction of VA. VA will notify the complainant in writing that the complaint has been referred; explain the reason why the complaint is not within the jurisdiction of VA; and give the complainant the name, agency, and address of the official to whom the complaint was referred.

(Authority: 42 U.S.C. 6101-6107)

(Approved by the Office of Management and Budget under control number 2900-0401)

§ 18.543 Mediation.

(a) Referral of complaints for mediation. VA will refer to the Federal Mediation and Conciliation Service all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to VA. VA will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjunctive proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) VA will use the mediation process for a maximum of 60 days after the responsible agency official receives a complaint.

(f) Mediation ends if:

(1) 60 days elapse from the time the responsible agency official receives the complaint; or

(2) Prior to the end of that 60-day period, an agreement is reached; or

(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(g) The mediator shall return unresolved complaints to VA.

(Authority: 42 U.S.C. 6101-6107)