

36.550 is not obviated or alleviated by the existence of any State or local law or other requirement that imposes prohibitions or limits upon employment of members of one sex that are not imposed upon members of the other sex.

(b) *Benefits.* A recipient that provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

§ 36.540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

§ 36.545 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is “Miss” or “Mrs.”

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

§ 36.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§36.500 through 36.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet

facility used only by members of one sex.

Subpart F—Procedures

§ 36.600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the FEDERAL REGISTER a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency's office that enforces Title IX.

§ 36.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (“Title VI”) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 29 CFR 31.5, 31.7 through 31.11.

[65 FR 52881, Aug. 30, 2000]

§ 36.610 [Reserved]

PART 37—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS OF THE WORKFORCE INVESTMENT ACT OF 1998 (WIA)

Subpart A—General Provisions

Sec.

- 37.1 What is the purpose of this part?
 37.2 To whom does this part apply, and what is the scope of this part?
 37.3 How does this part affect a recipient's other obligations?
 37.4 What definitions apply to this part?
 37.5 What forms of discrimination are prohibited by this part?
 37.6 What specific discriminatory actions, based on prohibited grounds other than disability, are prohibited by this part, and what limitations are there related to religious activities?
 37.7 What specific discriminatory actions based on disability are prohibited by this part?
 37.8 What are a recipient's responsibilities regarding reasonable accommodation and reasonable modification for individuals with disabilities?

Pt. 37

- 37.9 What are a recipient's responsibilities to communicate with individuals with disabilities?
- 37.10 To what extent are a recipient's employment practices covered by this part?
- 37.11 To what extent are intimidation and retaliation prohibited by this part?
- 37.12 What Department of Labor office is responsible for administering this part?
- 37.13 Who is responsible for providing interpretations of this part?
- 37.14 Under what circumstances may the Secretary delegate the responsibilities of this part?
- 37.15 What are the Director's responsibilities to coordinate with other civil rights agencies?
- 37.16 What is this part's effect on a recipient's obligations under other laws, and what limitations apply?

Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients

ASSURANCES

- 37.20 What is a grant applicant's obligation to provide a written assurance?
- 37.21 How long will the recipient's obligation under the assurance last, and how broad is the obligation?
- 37.22 How must covenants be used in connection with this part?

EQUAL OPPORTUNITY OFFICERS

- 37.23 Who must designate an Equal Opportunity Officer?
- 37.24 Who is eligible to serve as an Equal Opportunity Officer?
- 37.25 What are the responsibilities of an Equal Opportunity Officer?
- 37.26 What are a recipient's obligations relating to the Equal Opportunity Officer?
- 37.27 What are the obligations of small recipients regarding Equal Opportunity Officers?
- 37.28 What are the obligations of service providers regarding Equal Opportunity Officers?

NOTICE AND COMMUNICATION

- 37.29 What are a recipient's obligations to disseminate its equal opportunity policy?
- 37.30 What specific wording must the notice contain?
- 37.31 Where must the notice required by §§ 37.29 and 37.30 be published?
- 37.32 When must the notice be provided?
- 37.33 Who is responsible for meeting the notice requirement with respect to service providers?
- 37.34 What type of notice must a recipient include in publications, broadcasts, and other communications?
- 37.35 What are a recipient's responsibilities to provide services and information in languages other than English?

29 CFR Subtitle A (7-1-06 Edition)

- 37.36 What responsibilities does a recipient have to communicate information during orientations?

DATA AND INFORMATION COLLECTION AND MAINTENANCE

- 37.37 What are a recipient's responsibilities to collect and maintain data and other information?
- 37.38 What information must grant applicants and recipients provide to CRC?
- 37.39 How long must grant applicants and recipients maintain the records required under this part?
- 37.40 What access to sources of information must grant applicants and recipients provide the Director?
- 37.41 What responsibilities do grant applicants, recipients, and the Department have to maintain the confidentiality of the information collected?
- 37.42 What are a recipient's responsibilities under this part to provide universal access to WIA Title I-financially assisted programs and activities?

Subpart C—Governor's Responsibilities To Implement the Nondiscrimination and Equal Opportunity Requirements of WIA

- 37.50 To whom does this subpart apply?
- 37.51 What are a Governor's oversight responsibilities?
- 37.52 To what extent may a Governor be liable for the actions of a recipient he or she has financially assisted under WIA Title I?
- 37.53 What are a Governor's oversight responsibilities regarding recipients' recordkeeping?
- 37.54 What are a Governor's obligations to develop and maintain a Methods of Administration?
- 37.55 When must the Governor carry out his or her obligations with regard to the Methods of Administration?

Subpart D—Compliance Procedures

- 37.60 How does the Director evaluate compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?
- 37.61 Is there authority to issue subpoenas?

COMPLIANCE REVIEWS

- 37.62 What are the authority and procedures for conducting pre-approval compliance reviews?
- 37.63 What are the authority and procedures for conducting post-approval compliance reviews?
- 37.64 What procedures must the Director follow when CRC has completed a post-approval compliance review?
- 37.65 What is the Director's authority to monitor the activities of a Governor?

- 37.66 What happens if a recipient fails to submit requested data, records, and/or information, or fails to provide CRC with the required access?
- 37.67 What information must a Notice to Show Cause contain?
- 37.68 How may a recipient show cause why enforcement proceedings should not be instituted?
- 37.69 What happens if a recipient fails to show cause?

COMPLAINT PROCESSING PROCEDURES

- 37.70 Who may file a complaint concerning discrimination connected with WIA Title I?
- 37.71 Where may a complaint be filed?
- 37.72 When must a complaint be filed?
- 37.73 What information must a complaint contain?
- 37.74 Are there any forms that a complainant may use to file a complaint?
- 37.75 Is there a right of representation in the complaint process?
- 37.76 What are the required elements of a recipient's discrimination complaint processing procedures?
- 37.77 Who is responsible for developing and publishing complaint processing procedures for service providers?
- 37.78 Does a recipient have any special obligations in cases in which the recipient determines that it has no jurisdiction over a complaint?
- 37.79 If, before the 90-day period has expired, a recipient issues a Notice of Final Action with which the complainant is dissatisfied, how long does the complainant have to file a complaint with the Director?
- 37.80 What happens if a recipient fails to issue a Notice of Final Action within 90 days of the date on which a complaint was filed?
- 37.81 Are there any circumstances under which the Director may extend the time limit for filing a complaint with him or her?
- 37.82 Does the Director accept every complaint for resolution?
- 37.83 What happens if a complaint does not contain enough information?
- 37.84 What happens if CRC does not have jurisdiction over a complaint?
- 37.85 Are there any other circumstances in which the Director will send a complaint to another authority?
- 37.86 What must the Director do if he or she determines that a complaint will not be accepted?
- 37.87 What must the Director do if he or she determines that a complaint will be accepted?
- 37.88 Who may contact CRC about a complaint?
- 37.89 May the Director offer the parties to a complaint the option of mediation?

DETERMINATIONS

- 37.90 If a complaint is investigated, what must the Director do when the investigation is completed?
- 37.91 What notice must the Director issue if he or she finds reasonable cause to believe that a violation has taken place?
- 37.92 What notice must the Director issue if he or she finds no reasonable cause to believe that a violation has taken place?
- 37.93 What happens if the Director finds that a violation has taken place, and the recipient fails or refuses to take the corrective action listed in the Initial Determination?
- 37.94 What corrective or remedial actions may be imposed where, after a compliance review or complaint investigation, the Director finds a violation of the nondiscrimination and equal opportunity provisions of WIA or this part?
- 37.95 What procedures apply if the Director finds that a recipient has violated the nondiscrimination and equal opportunity provisions of WIA or this part?
- 37.96 What are the required elements of a written assurance?
- 37.97 What are the required elements of a Conciliation Agreement?
- 37.98 What are the circumstances under which the Director will conclude that compliance cannot be secured by voluntary means?
- 37.99 If the Director concludes that compliance cannot be secured by voluntary means, what actions must he or she take?
- 37.100 What information must a Final Determination contain?
- 37.101 Whom must the Director notify of a finding of noncompliance?

BREACHES OF CONCILIATION AGREEMENTS

- 37.102 What happens if a grant applicant or recipient breaches a Conciliation Agreement?
- 37.103 Whom must the Director notify about a breach of a Conciliation Agreement?
- 37.104 What information must a Notification of Breach of Conciliation Agreement contain?
- 37.105 Whom must the Director notify if enforcement action under a Notification of Breach of Conciliation Agreement is commenced?

Subpart E—Federal Procedures For Effecting Compliance

- 37.110 What enforcement procedures does the Department follow to effect compliance with the nondiscrimination and equal opportunity provisions of WIA and this part?
- 37.111 What hearing procedures does the Department follow?

§ 37.1

- 37.112 What procedures for initial and final decisions does the Department follow?
- 37.113 What procedure does the Department follow to suspend, terminate, withhold, deny or discontinue WIA Title I financial assistance?
- 37.114 What procedure does the Department follow to distribute WIA Title I financial assistance to an alternate recipient?
- 37.115 What procedures does the Department follow for post-termination proceedings?

AUTHORITY: Sections 134(b), 136(d)(2)(F), 136(e), 172(a), 183(c), 185(d)(1)(E), 186, 187 and 188 of the Workforce Investment Act of 1998, 29 U.S.C. 2801, *et seq.*; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101; Title IX of the Education Amendments of 1972, as amended, 29 U.S.C. 1681; Executive Order 13198, 66 FR 8497, 3 CFR 2001 Comp., p. 750; and Executive Order 13279, 67 FR 77141, 3 CFR 2002 Comp., p. 258.

SOURCE: 64 FR 61715, Nov. 12, 1999, unless otherwise noted.

Subpart A—General Provisions

§ 37.1 What is the purpose of this part?

The purpose of this part is to implement the nondiscrimination and equal opportunity provisions of the Workforce Investment Act of 1998 (WIA), which are contained in section 188 of WIA. Section 188 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. This part clarifies the application of the nondiscrimination and equal opportunity provisions of WIA and provides uniform procedures for implementing them.

§ 37.2 To whom does this part apply, and what is the scope of this part?

- (a) This part applies to:
- (1) Any recipient, as defined in § 37.4;
 - (2) Programs and activities that are part of the One-Stop delivery system and that are operated by One-Stop partners listed in section 121(b) of WIA, to the extent that the programs and activities are being conducted as part of the One-Stop delivery system; and

29 CFR Subtitle A (7–1–06 Edition)

- (3) The employment practices of a recipient and/or One-Stop partner, as provided in § 37.10.

(b) *Limitation of Application.* This part does not apply to:

- (1) Programs or activities that are financially assisted by the Department exclusively under laws other than Title I of WIA, and that are not part of the One-Stop delivery system (including programs or activities implemented under, authorized by, and/or financially assisted by the Department under, JTPA);

- (2) Contracts of insurance or guaranty;

- (3) The ultimate beneficiary to this program of Federal financial assistance;

- (4) Federal procurement contracts, with the exception of contracts to operate or provide services to Job Corps Centers; and

- (5) Federally-operated Job Corps Centers. The operating Department is responsible for enforcing the non-discrimination and equal opportunity laws to which such Centers are subject.

§ 37.3 How does this part affect a recipient's other obligations?

(a) A recipient's compliance with this part will satisfy any obligation of the recipient to comply with 29 CFR part 31, the Department of Labor's regulations implementing Title VI of the Civil Rights Act of 1964, as amended (Title VI), and with Subparts A, D and E of 29 CFR part 32, the Department's regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).

(b) 29 CFR part 32, Subparts B and C and Appendix A, the Department's regulations which implement the requirements of Section 504 pertaining to employment practices and employment-related training, program accessibility, and reasonable accommodation, are hereby incorporated into this part by reference. Therefore, recipients must comply with the requirements set forth in those regulatory sections as well as the requirements listed in this part.

(c) Recipients that are also public entities or public accommodations, as defined by Titles II and III of the Americans with Disabilities Act of 1990