

For: FSA, FAS, and RMA Employees

Nondiscrimination in Federally Conducted Activities

Approved by: Acting Deputy Administrator, Management



1 Overview

A

Background

Section 504 of the Vocational Rehabilitation Act of 1973, as amended, requires equal opportunity for **qualified** individuals with disabilities for both:

- recipients of Federal financial assistance from USDA
- programs, services, and activities conducted directly by or on behalf of USDA.

This notice addresses only programs, services, and activities **conducted** directly by or on behalf of USDA.

B

Purpose

This notice provides:

- guidance for implementing Section 504 for programs, services, and activities **conducted** directly by or on behalf of USDA
- resource information
- information about Section 504 Self-Evaluation.

<p>Disposal Date</p> <p>January 1, 2001</p>	<p>Distribution</p> <p>All FSA, FAS, and RMA employees; State Offices relay to County Offices</p>
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2 Federally Conducted Activities

A

Background

Section 504 of Title V of the Vocational Rehabilitation Act was amended in 1978 to provide civil rights protections against discrimination by any Federal agency about delivery of programs, services, and activities provided by the Federal entity. Programs, services, and activities include, but are not limited to education, loans, grants, etc.

B

USDA Regulations

USDA regulations implementing the delivery of services and activities either **sponsored or funded** by USDA are in 7 CFR 15c.

USDA regulations implementing USDA **conducted** Section 504 activities and programs are found in 7 CFR 15e.

C

Application

Section 504 obligations apply to all recipients of Federal financial assistance from USDA and to all programs, activities, and services provided by USDA or its agents.

D

Federally Conducted Programs and Activities

Federally conducted programs and activities include the following.

- All programs and activities conducted by USDA (7 CFR 15e.102). The U.S. Department of Justice has interpreted this to mean that anything the Department does is considered a Federally conducted activity, including activities and programs in which the Department, or its agent, provide services to customers. This includes program delivery, human resources, and civil rights activities.
- Meetings, conferences, trips, activities, etc.; planned, sponsored, or provided by individuals or groups who are not USDA employees or its agent, but use USDA facilities. For example, a conference held on USDA property, but not sponsored by USDA.
- Contact with the public by any USDA employee or its agent. This includes speeches, presentations, service on boards of directors, etc.

Federally conducted programs and activities involve 2 parties, USDA and the beneficiary of the program or the activity.

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2 Federally Conducted Activities (Continued)

E Individuals Protected

An individual eligible for the civil rights protections of Section 504 must:

- satisfy the definition of an individual with a disability
 - be otherwise qualified or eligible for the service or activity.
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F Individual With a Disability

An individual with a disability is any person who has a physical or mental impairment which substantially limits 1 or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

G Otherwise Qualified or Eligible

For purposes of delivery of programs, services, or activities, an otherwise qualified or eligible individual with a disability is one who:

- can perform or carry out the service or achieve a level of accomplishment; for example, completing a training program
 - meets the essential eligibility requirements for participation in, recipient of, or benefits from the program or activity.
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3 Nondiscrimination in Federally Conducted Activities

A Background

Each Agency and individual of USDA has responsibility for ensuring that it **does not discriminate** in all terms and conditions of employment and ensures equal opportunity to all programs and activities.

B Auxiliary Aids

Agencies shall provide auxiliary aids, when necessary, to provide individuals with disabilities an equal opportunity to participate and enjoy the benefits of a program or activity conducted by the Agency.

The Agency is required to provide auxiliary aids to qualified individuals with disabilities, unless the Agency can demonstrate that providing the auxiliary aid requested would fundamentally alter the Agency's program or would require the Agency to undertake an undue financial and administrative burden.
See 7 CFR 15e.160.

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3 **Nondiscrimination in Federally Conducted Activities (Continued)**

C
Non-
discrimination
Requirements

Section 504 has far reaching protections. The prohibited activities set forth in the regulations are that no qualified individual with a disability shall, **on the basis of disability**, be:

- denied the benefit or otherwise be subjected to discrimination under any program or activity
- denied the benefits of any aid, benefit, or service
- denied directly, or through contractual, licensing, or other arrangements, etc.
- denied the opportunity to participate in, or benefit from, an aid, benefit, or service
- denied the opportunity to participate in, or benefit from, an aid, benefit, or service that is not equal to that afforded to others
- denied an aid, benefit, or service that is not effective in providing an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others
- provided different or separate aid, benefits, or services than is provided to others, unless such action is necessary to provide the person with a disability with aid, benefits, or services that are as effective as those provided to others
- denied the opportunity to participate as a member of a planning or advisory board
- limited in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service
- denied the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs

Example: Persons with disabilities must be allowed access to a museum exhibit during standard exhibit hours, even though the museum has set aside certain hours for persons with disabilities to view the exhibit.

- subjected, either directly or through contractual or other arrangements, to criteria, written policies, or actual practices of the Agency which discriminate on the basis of disability, or defeat or substantially impair accomplishments of the objectives of the program or activity
 - excluded, denied benefits of, substantially impaired, or otherwise subjected to discrimination under any program or activity by selecting the site or location of a facility or activity in which the purpose and effect is to do same.
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4 Notification of Policies of Nondiscrimination

A

Background

USDA regulations in 7 CFR 15e.111 require that each agency make available to employees, applicants, participants, beneficiaries, and other interested persons, information about nondiscrimination assurances, and how programs and activities are conducted by USDA. The Department is required to ensure “effective communication” with applicants, participants, personnel of other Federal entities, and members of the public. See 7 CFR 15e.160.

B

Effective Communication

This information will be made available in such a manner as necessary to apprise all persons, including persons with disabilities, of their protections against discrimination on the basis of disability assured by Section 504. Providing effective communication with persons with disabilities includes, but is not limited to, persons with visual, hearing, cognitive, and learning disabilities.

C

Alternate Format

Materials requested in alternate format may include, but are not limited to:

- handbooks, manuals, pamphlets, and forms describing the Agency’s programs and activities
- informational posters and displays
- information broadcast by television, radio, or other electronic medium.

For assistance in providing materials in alternate format, contact the Office of Civil Rights and Small Business Utilization Staff on 1 of the following numbers:

- 202-401-7220 (Voice)
 - 1-800-877-8339 (TDD)
 - 202-401-7100 (FAX).
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5 Filing Complaints

A **Complaints** **About FSA**

Complaints about FSA compliance with Section 504 of the Vocational Rehabilitation Act, as amended, and its implementing regulations, should be forwarded to the Office of Civil Rights and Small Business Utilization Staff by either of the following methods:

- by telephone on 1 of the following numbers:
 - 202-401-7220 (Voice)
 - 1-800-877-8339 (TDD)
 - 202-401-7100 (FAX)
- in writing to:

Office of Civil Rights and Small Business Utilization Staff
1280 Maryland Avenue SW
Suite 580
Washington, DC 20250-0509.

B **Complaints** **About RMA**

Complaints about RMA compliance with Section 504 of the Vocational Rehabilitation Act, as amended, and its implementing regulations, should be forwarded to the Office of Civil Rights by either of the following methods:

- by telephone on 1 of the following numbers:
 - 202-690-3578 (Voice)
 - 1-800-877-8339 (TDD)
 - 202-690-2818 (FAX)
- in writing to:

Risk Management Agency
Office of Civil Rights
1400 Independence Avenue SW
Washington, DC 20250-0801.

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5 Filing Complaints (Continued)

**A
Complaints
About FAS**

Complaints about FAS compliance with Section 504 of the Vocational Rehabilitation Act, as amended, and its implementing regulations, should be forwarded to the Office of Civil Rights by either of the following methods:

- by telephone on 1 of the following numbers:

- 202-720-7233 (Voice)
- 1-800-877-8339 (TDD)
- 202-720-2658 (FAX)

- in writing to:

Foreign Agricultural Service
Office of Civil Rights
1400 Independence Avenue SW
Washington, DC 20250-1008.

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6 Self Evaluation

A

Background

USDA regulations in 7 CFR 15e.110 require the agency which operates or conducts the program or activity to review and evaluate whether its policies and practices ensure that qualified individuals with disabilities have access to all programs and activities.

B

Procedure

The optimum procedure for completing this obligation is to have a separate evaluation prepared for each program or activity at each location or site. Separate evaluations will facilitate identification of program or activity elements, accessible features, and accessibility deficiencies; as well as contribute to the preparation of the Department's Self-Evaluation report, record keeping, and record retrieval.

C

What Each Report Should Include

Each Self-Evaluation report should include:

- name, location, and description of the evaluated program or activity
 - a list of the persons who participated in the evaluation, including any interested persons having disabilities or organizations representing persons with disabilities
 - a description of each identified program accessibility deficiency, **not** architectural deficiency
 - a description of the modification required to correct each identified program accessibility deficiency
 - the estimated cost of the modifications, if any
 - the time frame for completing of the modifications
 - a description of each deficiency identified and corrected **after** the evaluation and **before** issuing the Self-Evaluation report.
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6 Self Evaluation (Continued)

D

Policies and Procedures to Follow

The U.S. Department of Justice has identified 18 policy and procedural areas to be reviewed as part of the Self-Evaluation to ensure a thorough and in-depth evaluation.

Area	Description
1	Identify Agency personnel and the Agency unit or units responsible for conducting the self-evaluation.
2	Policies and procedures for providing employees, program applicants, beneficiaries, and other interested persons information about nondiscrimination assurances, and how programs and activities are conducted by the Agency.
3	Policies that limit the participation of individuals with disabilities in Agency programs and activities, including access: <ul style="list-style-type: none">• to public meetings• for deaf and hearing-impaired persons• for visually-impaired persons• for mobility-impaired persons.
4	Policies and training for staff to provide individuals with disabilities an opportunity to participate in programs and activities.
5	Policies and procedures for accepting, investigating, and adjudicating complaints alleging discrimination in Agency conducted programs and activities.
6	Use of contractors.
7	Accessibility of new and newly-acquired facilities, including: <ul style="list-style-type: none">• new construction/alterations• existing facilities• waivers.
8	Agency provided transportation, including: <ul style="list-style-type: none">• shuttle services• parking.

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6 Self Evaluation (Continued)

D
Policies and
Procedures to
Follow
(Continued)

Area	Description
9	Policies and procedures for determining undue financial and administrative burdens.
10	Policies and procedures for ensuring effective communication with program applicants, participants, employees, personnel from other Federal agencies, and members of the public.
11	Policies and procedures for ensuring that documents and publications are available in alternate format.
12	Policies and procedures for providing sign language interpreters.
13	Policies and procedures for providing readers and amanuenses.
14	Policies and procedures for providing assistive listening devices.
15	Policies for ensuring that all audio visual presentations (film, videotape, television, TeleVideo, satellite, etc.) are accessible to persons with disabilities.
16	Policies and procedures to ensure effective access to and communication capability via automated electronic equipment (voice mail and e-mail) for qualified employees, applicants, and customers with disabilities.
17	Policies and procedures for emergency evacuation from Agency facilities, meeting / training locations, etc.
18	Participation of individuals with disabilities in the self-evaluation process.
