

Federal Communications Commission

§ 1.1830

Amendments of 1974, Public Law 93-516, 88 Stat. 1617, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Public Law 95-602, 92 Stat. 2955, and the Rehabilitation Act Amendments of 1986, sec. 103(d), Public Law 99-506, 100 Stat. 1810. As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Section 504 Officer is the Commission employee charged with overseeing the Commission's section 504 programs and activities.

§ 1.1805 Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook.

The Consumer & Governmental Affairs Bureau shall publish a "Federal Communications Commission Section 504 Programs and Activities Accessibility Handbook" ("Section 504 Handbook") for Commission staff, and shall update the Section 504 Handbook as necessary and at least every three years. The Section 504 Handbook shall be available to the public in hard copy upon request and electronically on the Commission's Internet website. The Section 504 Handbook shall contain procedures for releasing documents, holding meetings, receiving comments, and for other aspects of Commission programs and activities to achieve accessibility. These procedures will ensure that the Commission presents a consistent and complete accommodation policy pursuant to 29 U.S.C. 794, as amended. The Section 504 Handbook is for internal staff use and public information only, and is not intended to create any rights, responsibilities, or independent cause of action against the Federal Government.

§ 1.1810 Review of compliance.

(a) The Commission shall, beginning in 2004 and at least every three years thereafter, review its current policies and practices in view of advances in relevant technology and achievability. Based on this review, the Commission shall modify its practices and procedures to ensure that the Commission's programs and activities are fully accessible.

(b) The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the review process by submitting comments. Written comments shall be signed by the commenter or by someone authorized to do so on his or her behalf. The signature of the commenter, or signature of someone authorized by the commenter to do so on his or her behalf, shall be provided on print comments. Comments in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a commenter's signature.

(c) The Commission shall maintain on file and make available for public inspection for four years following completion of the compliance review—

- (1) A description of areas examined and problems identified;
- (2) All comments and complaints filed regarding the Commission's compliance; and
- (3) A description of any modifications made.

§ 1.1811 Notice.

The Commission shall make available to employees, applicants, participants, beneficiaries, and other interested persons information regarding the regulations set forth in this part, and their applicability to the programs or activities conducted by the Commission. The Commission shall make such information available to such persons in such manner as the Section 504 Officer finds necessary to apprise such persons of the protections against discrimination assured them by section 504.

§ 1.1830 General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Discriminatory actions prohibited.

(1) The Commission, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording 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;

(iv) Provide different or separate aid, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Commission may not deny a qualified individual with a disability the opportunity to participate in any program or activity even where the Commission is also providing equivalent permissibly separate or different programs or activities for persons with disabilities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration—

(i) That have the purpose or effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability; or

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of a

program or activity with respect to individuals with disabilities.

(4) The Commission may not, in determining the site or location of a facility, make selections—

(i) That have the purpose or effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity conducted by the Commission; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(5) The Commission, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) The Commission may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the Commission establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Commission are not, themselves, covered by this part.

(7) The Commission shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Commission can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.

(c) This part does not prohibit the exclusion of persons without disabilities from the benefits of a program limited by Federal statute or Executive order to individuals with disabilities, or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive order to a different class of individuals with disabilities.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the

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needs of qualified individuals with disabilities.

§ 1.1840 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, as established by the Equal Employment Opportunity Commission in 29 CFR parts 1614 and 1630, as well as the procedures set forth in the Basic Negotiations Agreement Between the Federal Communications Commission and National Treasury Employees Union, as amended, and Subchapter III of the Civil Service Reform Act of 1978, 5 U.S.C. 7121(d), shall apply to employment in federally conducted programs or activities.

§ 1.1849 Program accessibility: Discrimination prohibited.

(a) Except as otherwise provided in § 1.1850, no qualified individual with a disability shall, because the Commission's facilities are inaccessible to, or unusable, by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Individuals shall request accessibility to the Commission's programs and facilities by contacting the Commission's Section 504 Officer. Such contact may be made in the manner indicated in the FCC Section 504 Handbook. The Commission will make every effort to provide accommodations requiring the assistance of other persons (e.g., American Sign Language interpreters, communication access realtime translation (CART) providers, transcribers, captioners, and readers) if the request is made to the Commission's Section 504 Officer a minimum of five business days in advance of the program. If such requests are made fewer than five business days prior to an event, the Commission will make every effort to secure accommodation services, although it may be less likely

that the Commission will be able to secure such services.

§ 1.1850 Program accessibility: Existing facilities.

(a) *General.* Except as otherwise provided in this paragraph, the Commission shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity, or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with § 1.1850(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Managing Director, in consultation with the Section 504 Officer, after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as the redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing