

Federal Communications Commission

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(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 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 Negotiated 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

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federally conducted programs or activities.

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§ 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 ad-

ministrative 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 facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The Commission is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.