Index to Central Civil Rights Folder 2

Civil Rights Act of 1964

last updated 6-11-2003

Title VI (non-discrimination in programs and services) and VII (non-discrimination in employment)

To access full documents please cut and paste these URL's to the address window of your browser

Title VII:

http://www.eeoc.gov/laws/vii.html

Title VI:

http://www.usdoj.gov/crt/cor/coord/titlevistat.htm

http://www.usdoj.gov/crt/cor/coord/titlevi.htm

Overviews of Civil Rights Law

http://www.law.cornell.edu/topics/civil_rights.html

This folder also contains a hard copy of parts of the Civil Rights Act of 1964 specifically related to Agriculture and Extension.

Hard copies are also provided:
"Overview of Title VI of the Civil Rights Act of 1964" (U.S. Department of Justice)

"Employment Discrimination: an Overview" (Legal Information Institute, Cornell Law)

"Federal Laws Prohibiting Job Discrimination, Questions and Answers" (EEOC)
Overview of Title VI of the Civil Rights Act of 1964

Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. As President John F. Kennedy said in 1963:

Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.

If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action. Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, or the individuals may file suit for appropriate relief in federal court. Title VI itself prohibits intentional discrimination. However, most funding agencies have regulations implementing Title VI that prohibit recipient practices that have the effect of discrimination on the basis of race, color, or national origin.

To assist federal agencies that provide financial assistance, the wide variety of recipients that receive such assistance, and the actual and potential beneficiaries of programs receiving federal assistance, the U.S. Department of Justice has published a Title VI Legal Manual. The Title VI Legal Manual sets out Title VI legal principles and standards. Additionally, the Department has published an Investigation Procedures Manual to give practical advice on how to investigate Title VI complaints. Also available on the Coordination and Review Website are a host of other materials that may be helpful to those interested in ensuring effective enforcement of Title VI.

This page was last updated on April 11, 2002.
employment discrimination: an overview

Employment Discrimination laws seek to prevent discrimination based on race, sex, religion, national origin, physical disability, and age by employers. There is also a growing body of law preventing or occasionally justifying employment discrimination based on sexual orientation. Discriminatory practices include bias in hiring, promotion, job assignment, termination, compensation, and various types of harassment. The main body of employment discrimination laws is composed of federal and state statutes. The United States Constitution and some state constitutions provide additional protection where the employer is a governmental body or the government has taken significant steps to foster the discriminatory practice of the employer.

The Fifth and Fourteenth Amendments of the United States Constitution limit the power of the federal and state governments to discriminate. The Fifth amendment has an explicit requirement that the federal government not deprive individuals of "life, liberty, or property," without due process of the law. See U.S. Const. amend. V. It also contains an implicit guarantee that each person receive equal protection of the laws. The Fourteenth Amendment explicitly prohibits states from violating an individual's rights of due process and equal protection. See U.S. Const. amend. XIV. In the employment context the right of equal protection limits the power of the state and federal governments to discriminate in their employment practices by treating employees, former employees, or job applicants unequally because of membership in a group (such as a race or sex). Due process protection requires that employees have a fair procedural process before they are terminated if the termination is related to a "liberty" (such as the right to free speech) or property interest. State constitutions may also afford protection from employment discrimination.

Discrimination in the private sector is not directly constrained by the Constitution, but has become subject to a growing body of federal and state statutes.

The Equal Pay Act amended the Fair Labor Standards Act in 1963. The Equal Pay Act prohibits paying wages based on sex by employers and unions. It does not prohibit other discriminatory practices bias in hiring. It provides that where workers perform equal work in jobs requiring "equal skill, effort, and responsibility and performed under similar working conditions," they should be provided equal pay. The Fair Labor Standards Act applies to employees engaged in some aspect of interstate commerce or all of an employer's workers if the enterprise is engaged as a whole in a significant amount of interstate commerce.

Title VII of the Civil Rights Act of 1964 prohibits discrimination in many more aspects of the employment relationship. It applies to most employers engaged in interstate commerce with more than 15 employees. Title
engaged in interstate commerce with more than 15 employees, labor organizations, and employment agencies. The Act prohibits discrimination based on race, color, religion, sex or national origin. Sex includes pregnancy, childbirth or related medical conditions. It makes it illegal for employers to discriminate in hiring, discharging, compensation, or terms, conditions, and privileges of employment. Employment agencies may not discriminate when hiring or referring applicants. Labor Organizations are also prohibited from basing membership or union classifications on race, color, religion, sex, or national origin.


The Age Discrimination in Employment Act (ADEA) prohibits employers from discriminating on the basis of age. The prohibited practices are nearly identical to those outlined in Title 7. An employee is protected from discrimination based on age if he or she is over 40. The ADEA contains explicit guidelines for benefit, pension and retirement plans.

The Rehabilitation Act's purpose is to "promote and expand employment opportunities in the public and private sectors for handicapped individuals," through the elimination of discrimination and affirmative action programs. Employers covered by the act include agencies of the federal government and employers receiving federal contracts over $2500 or federal financial assistance. The Department of Labor enforces section 793 of the act which refers to employment under federal contracts. The Department of Justice enforces section 794 of the act which refers to organizations receiving federal assistance. The EEOC enforces the act against federal employees and individual federal agencies promulgate regulation pertaining to the employment of the disabled.

The American with Disabilities Act (ADA) was enacted to eliminate discrimination against those with handicaps. It prohibits discrimination based on a physical or mental handicap by employers engaged in interstate commerce and state governments. The type of discrimination prohibited is broader than that explicitly outlined by Title VII.

The Black Lung Act prohibits discrimination by mine operators against miners who suffer from "black lung" (pneumoconiosis).

The Equal Opportunity Employment Commission (EEOC) interprets and enforces the Equal Payment Act, Age Discrimination in Employment Act, Title VII, Americans With Disabilities Act, and sections of the Rehabilitation Act. The Commission was established by Title VII. Its enforcement provisions are contained in section 2000e-5 of Title 42, and its regulations and guidelines are contained in Title 29 of the Code of Federal Regulations, part 1614.

State statutes also provide extensive protection from employment discrimination. Some laws extend similar protection as provided by the federal acts to employers who are not covered by those statutes. Other statutes provide protection to groups not covered by the federal acts. A number of state statutes provide protection for individuals who are performing civil or family duties outside of their normal employment.
Federal Laws Prohibiting Job Discrimination Questions And Answers

Federal Equal Employment Opportunity (EEO) Laws

I. What Are the Federal Laws Prohibiting Job Discrimination?

- Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- the Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- the Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older;
- Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government; and
- the Civil Rights Act of 1991, which, among other things, provides monetary damages in cases of intentional employment discrimination.

The U.S. Equal Employment Opportunity Commission (EEOC) enforces all of these laws. EEOC also provides oversight and coordination of all federal equal employment opportunity regulations, practices, and policies.

Other federal laws, not enforced by EEOC, also prohibit discrimination and reprisal against federal employees and applicants. The Civil Service Reform Act of 1978 (CSRA) contains a number of prohibitions, known as prohibited personnel practices, which are designed to promote overall fairness in federal personnel actions. 5 U.S.C. 2302. The CSRA prohibits any employee who has authority to take certain personnel actions from discriminating for or against employees or applicants for employment on the bases of race, color, national origin, religion, sex, age or disability. It also provides that certain personnel actions can not be based on attributes or conduct that do not adversely affect employee performance, such as marital status and political affiliation. The Office of Personnel Management (OPM) has interpreted the prohibition of discrimination based on conduct to include discrimination based on sexual orientation. The CSRA also prohibits reprisal against federal employees or applicants for whistle-blowing, or for exercising an appeal, complaint, or grievance right. The CSRA is enforced by both the Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB).

Additional information about the enforcement of the CSRA may be found on the OPM web site at http://www.opm.gov/er/address2/guide01.htm; from OSC at (202) 653-7188 or at http://www.eeoc.gov/facts/qanda.html 6/11/03
Discriminatory Practices

II. What Discriminatory Practices Are Prohibited by These Laws?

Under Title VII, the ADA, and the ADEA, it is illegal to discriminate in any aspect of employment, including:

- hiring and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- job advertisements;
- recruitment;
- testing;
- use of company facilities;
- training and apprenticeship programs;
- fringe benefits;
- pay, retirement plans, and disability leave; or
- other terms and conditions of employment.

Discriminatory practices under these laws also include:

- harassment on the basis of race, color, religion, sex, national origin, disability, or age;
- retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities; and
- denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group.

Employers are required to post notices to all employees advising them of their rights under the laws EEOC enforces and their right to be free from retaliation. Such notices must be accessible, as needed, to persons with visual or other disabilities that affect reading.

Note: Many states and municipalities also have enacted protections against discrimination and harassment based on sexual orientation, status as a parent, marital status and political affiliation. For information, please contact the EEOC District Office nearest you.

III. What Other Practices Are Discriminatory Under These Laws?

Title VII

Title VII prohibits not only intentional discrimination, but also practices that have the effect of discriminating against individuals because of their race, color, national origin, religion, or sex.
National Origin Discrimination

- It is illegal to discriminate against an individual because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.
- A rule requiring that employees speak only English on the job may violate Title VII unless an employer shows that the requirement is necessary for conducting business. If the employer believes such a rule is necessary, employees must be informed when English is required and the consequences for violating the rule.

The Immigration Reform and Control Act (IRCA) of 1986 requires employers to assure that employees hired are legally authorized to work in the U.S. However, an employer who requests employment verification only for individuals of a particular national origin, or individuals who appear to be or sound foreign, may violate both Title VII and IRCA; verification must be obtained from all applicants and employees. Employers who impose citizenship requirements or give preferences to U.S. citizens in hiring or employment opportunities also may violate IRCA.

Additional information about IRCA may be obtained from the Office of Special Counsel for Immigration-Related Unfair Employment Practices at 1-800-255-7688 (voice), 1-800-237-2515 (TTY for employees/applicants) or 1-800-362-2735 (TTY for employers) or at http://www.usdoj.gov/crt/osc.

Religious Accommodation

- An employer is required to reasonably accommodate the religious belief of an employee or prospective employee, unless doing so would impose an undue hardship.

Sex Discrimination

Title VII's broad prohibitions against sex discrimination specifically cover:

- Sexual Harassment - This includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender, including same sex harassment. (The "hostile environment" standard also applies to harassment on the bases of race, color, national origin, religion, age, and disability.)
- Pregnancy Based Discrimination - Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions.

Additional rights are available to parents and others under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. For information on the FMLA, or to file an FMLA complaint, individuals should contact the nearest office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division is listed in most telephone directories under U.S. Government, Department of Labor or at http://www.dol.gov/esa/public/whd_org.htm.

Age Discrimination in Employment Act

The ADEA's broad ban against age discrimination also specifically prohibits:
• statements or specifications in job notices or advertisements of age preference and limitations. An age limit may only be specified in the rare circumstance where age has been proven to be a *bona fide* occupational qualification (BFOQ);
• discrimination on the basis of age by apprenticeship programs, including joint labor-management apprenticeship programs; and
• denial of benefits to older employees. An employer may reduce benefits based on age only if the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

**Equal Pay Act**

The EPA prohibits discrimination on the basis of sex in the payment of wages or benefits, where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

Note that:

• Employers may not reduce wages of either sex to equalize pay between men and women.
• A violation of the EPA may occur where a different wage was/is paid to a person who worked in the same job before or after an employee of the opposite sex.
• A violation may also occur where a labor union causes the employer to violate the law.

**Titles I and V of the Americans with Disabilities Act**

The ADA prohibits discrimination on the basis of disability in all employment practices. It is necessary to understand several important ADA definitions to know who is protected by the law and what constitutes illegal discrimination:

Individual with a Disability

An individual with a disability under the ADA is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.

Qualified Individual with a Disability

A qualified employee or applicant with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

Reasonable Accommodation

Reasonable accommodation may include, but is not limited to, making existing facilities used by employees readily accessible to and usable by persons with disabilities; job restructuring; modification of work schedules; providing additional unpaid leave; reassignment to a vacant position; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters. Reasonable accommodation may be necessary to apply for a job, to perform job functions, or to enjoy the benefits and privileges of employment that are enjoyed by people without disabilities. An employer is not required to lower production standards to make an accommodation. An employer generally is not obligated to provide

http://www.eeoc.gov/facts/qanda.html
personal use items such as eyeglasses or hearing aids.

Undue Hardship
An employer is required to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operation of the employer's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of its operation.

Prohibited Inquiries and Examinations
Before making an offer of employment, an employer may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in the same job category. Medical examinations of employees must be job-related and consistent with business necessity.

Drug and Alcohol Use
Employees and applicants currently engaging in the illegal use of drugs are not protected by the ADA when an employer acts on the basis of such use. Tests for illegal use of drugs are not considered medical examinations and, therefore, are not subject to the ADA's restrictions on medical examinations. Employers may hold individuals who are illegally using drugs and individuals with alcoholism to the same standards of performance as other employees.

The Civil Rights Act of 1991

The Civil Rights Act of 1991 made major changes in the federal laws against employment discrimination enforced by EEOC. Enacted in part to reverse several Supreme Court decisions that limited the rights of persons protected by these laws, the Act also provides additional protections. The Act authorizes compensatory and punitive damages in cases of intentional discrimination, and provides for obtaining attorneys' fees and the possibility of jury trials. It also directs the EEOC to expand its technical assistance and outreach activities.

Employers And Other Entities Covered By EEO Laws

IV. Which Employers and Other Entities Are Covered by These Laws?

Title VII and the ADA cover all private employers, state and local governments, and education institutions that employ 15 or more individuals. These laws also cover private and public employment agencies, labor organizations, and joint labor management committees controlling apprenticeship and training.

The ADEA covers all private employers with 20 or more employees, state and local governments (including school districts), employment agencies and labor organizations.

The EPA covers all employers who are covered by the Federal Wage and Hour Law (the Fair Labor Standards Act). Virtually all employers are subject to the provisions of this Act.

Title VII, the ADEA, and the EPA also cover the federal government. In addition, the federal government is covered by Sections 501 and 505 of the Rehabilitation Act of 1973, as amended,
CIVIL RIGHTS ACT OF 1964
TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

AND

RULES AND REGULATIONS AS AMENDED

TITLE 7—AGRICULTURE
PART 15—NONDISCRIMINATION

Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

As in Effect January 30, 1975
An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such non-compliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action.
No such action shall become effective until thirty days have elapsed after the filing of such report.

Sec. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Sec. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

Sec. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.
PART 15—NONDISCRIMINATION

Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

Sec.
15.1 Purpose and application of part.
15.2 Definitions.
15.3 Discrimination prohibited.
15.4 Assurances required.
15.5 Compliance.
15.6 Complaints.
15.7 Intimidatory or retaliatory acts prohibited.
15.8 Procedure for effecting compliance.
15.9 Hearings.
15.10 Decisions and notices.
15.11 Judicial review.
15.12 Effect on other regulations; forms and instructions.

APPENDIX

Subpart B — Nondiscrimination — Direct USDA Programs and Activities

15.50 Applicability.
15.51 Discrimination prohibited.
15.52 Complaints.

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

GENERAL INFORMATION

15.60 Scope of rules.
15.61 Records to be public.
15.62 Definitions.
15.63 Computation of time.
15.64 Parties.
15.65 Appearance.
15.66 Complainants not parties.
15.67 Intervener.
15.68 Ex parte communications.

FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

15.71 Form of documents to be filed.
15.72 Filing.
15.73 Service.
15.74 Date of service.

INITIAL NOTICE AND RESPONSE

15.81 How proceedings are commenced.
15.82 Notice of hearing and response thereto.
15.83 Notice of opportunity to request a hearing and response thereto.
15.84 Answer.
15.85 Amendment of notice or answer.
15.86 Consolidated or joint hearings.

HEARING OFFICER

15.91 Who presides.
15.92 Designation of hearing officer.
15.93 Time and place of hearing.
15.94 Disability of hearing officer.
15.95 Responsibilities and duties of hearing officer.

MOTIONS

15.101 Form and content.
15.102 Responses to motions.
15.103 Disposition of motions.

HEARING PROCEDURES

15.110 Prehearing conferences.
15.111 Purpose of hearing.
15.112 Statement of position and brief.
15.113 Testimony.
15.114 Exhibits.
15.115 Affidavits.
15.116 Depositions.
15.117 Evidence.
15.118 Cross-examination.
15.119 Objections.
15.120 Exceptions to rulings of hearing officer unnecessary.
15.121 Official notice.
15.122 Offer of proof.
15.123 Appeals from ruling of hearing officer.
15.124 Admissions as to facts and documents.

THE RECORD

15.131 Official transcript.
15.132 Record for decision.

POSTHEARING PROCEDURES

15.135 Posthearing briefs.
15.136 Decisions and notices.
15.137 Exceptions to initial or proposed decision.
15.138 Review of initial decision.
15.139 Oral argument.
15.140 Service of decisions.
15.141 Contents of decision.
15.142 Content of orders.
15.143 Decision where financial assistance affected.
PART 15—NONDISCRIMINATION

Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

See. Purpose and application of part.

Discrimination prohibited.

Assurances required.

Compliance.

Complaints.

Intimidatory or retaliatory acts prohibited.

Procedure for effecting compliance.

Hearings.

Decisions and notices.

Judicial review.

Effect on other regulations; forms and instructions.

APPENDIX

Subpart B — Nondiscrimination — Direct USDA Programs and Activities

Applicability.

Discrimination prohibited.

Complaints.

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

GENERAL INFORMATION

Scope of rules.

Records to be public.

Definitions.

Computation of time.

Parties.

Appearance.

Complainants not parties.

Intervener.

Ex parte communications.

FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

Form of documents to be filed.

Filing.

Service.

Date of service.

INITIAL NOTICE AND RESPONSE

How proceedings are commenced.

Notice of hearing and response thereto.

Notice of opportunity to request a hearing and response thereto.

Answer.

Amendment of notice or answer.

Consolidated or joint hearings.

HEARING OFFICER

Who presides.

Designation of hearing officer.

Time and place of hearing.

Disability of hearing officer.

Responsibilities and duties of hearing officer.

MOTIONS

Form and content.

Responses to motions.

Disposition of motions.

HEARING PROCEDURES

Prehearing conferences.

Purpose of hearing.

Statement of position and brief.

Testimony.

Exhibits.

Affidavits.

Depositions.

Evidence.

Cross-examination.

Objections.

Exceptions to rulings of hearing officer unnecessary.

Official notice.

Offer of proof.

Appeals from ruling of hearing officer.

Admissions as to facts and documents.

THE RECORD

Official transcript.

Record for decision.

POSTHEARING PROCEDURES

Posthearing briefs.

Decisions and notices.

Exceptions to initial or proposed decision.

Review of initial decision.

Oral argument.

Service of decisions.

Contents of decision.

Content of orders.

Decision where financial assistance affected.
Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

AUTHORITY: The provisions of this Subpart A are issued under sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1; and the laws referred to in the Appendix.


§ 15.1 Purpose and application of part.

(a) The purpose of the regulations in this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof.

(b) The regulations in this part apply to any program or activity of an applicant or recipient for which Federal financial assistance is authorized under a law administered by the Department including, but not limited to, the Federal financial assistance listed in the appendix to this part. They apply to money paid, property transferred, or other Federal financial assistance extended to an applicant or recipient for its program or activity after the effective date of these regulations pursuant to an application approved or statutory or other provision made therefor prior to such effective date. The regulations in this part do not apply to: (1) any Federal financial assistance by way of insurance or guaranty contract, (2) money paid, property transferred, or other assistance extended prior to the effective date of the regulations in this part, (3) any assistance to an applicant or recipient who is an ultimate beneficiary under any such program, or (4) except as provided in § 15.3(c), any employment practice of any employer, employment agency or labor organization. The fact that a specific kind of Federal financial assistance is not listed in the appendix shall not mean, if Title VI of the Act is otherwise applicable, that such Federal financial assistance is not covered. Other Federal financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice approved and issued by the Secretary and published in the Federal Register.

§ 15.2 Definitions.

(a) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(b) "Agency" means any service, bureau, agency, office, administration, instrumentality of or corporation within the U.S. Department of Agriculture extending Federal financial assistance to any program or activity, or any officer or employee of the Department to whom the Secretary delegates authority to carry out any of the functions or responsibilities of an agency under this part.


(c) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act in his stead under the regulations in this part.

(d) "Hearing Officer" means a hearing examiner appointed pursuant to 5 U.S.C. 3105, and designated to hold hearings under the regulations in this part.

(e) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity or any individual in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof,
but such term does not include any ultimate beneficiary under any such program.

(f) "Primary recipient" includes any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(g) "Federal financial assistance" or "financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(h) "Grant, loan or contract" includes any grant, loan agreement or commitment to loan, contract or agreement to provide financial assistance or any other arrangement between the Department or any Agency and a recipient of financial assistance.

(i) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(j) "Applicant" means one who submits an application, request, or plan required to be approved by an Agency, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

(k) "Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

§ 15.3 Discrimination prohibited.

(a) General. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the applicant or recipient to which these regulations apply. These regulations apply, but are not restricted, to unequal treatment in priority, quality, quantity, methods or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement.

(b) Specific discriminatory actions prohibited. (1) A recipient under any program to which the regulations in this part apply may not, directly or through contractual or other arrangements on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the
program;
(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege, enjoyed by others receiving any service, financial aid, or other benefits under the program;
(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).
(vii) Discrimination in the selection of members of planning and advisory bodies is prohibited.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any of its activities or programs to which the regulations in this part apply, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and the regulations in this part.

(4) As used in this section, the services, financial aid, or other benefits provided under a program or activity of an applicant or recipient receiving Federal financial assistance shall be deemed to include any and all services, financial aid, or other benefit provided in or through a facility provided or improved in whole or part with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in these regulations does not limit the applicability of the provisions of paragraph (a) of this section.

(6) (i) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.
(ii) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color or national origin.
(c) * * * Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulations in this part, tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which these regulations apply, the foregoing provisions of this
§ 15.3 (c) shall apply to the employment practices of the recipient or other persons subject to these regulations, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or activity of the applicant or recipient shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive Order which supersedes it.

(d) **Examples.** In order that all parties may have a clear understanding of the applicability of the regulations in this part to their activities, there are listed in this section programs and activities together with illustrations, by way of example only, of types of activity covered by the regulations in this part. These illustrations and examples, however, are not intended to be all inclusive. The fact that a particular program is not listed does not, of course, indicate that it is not covered by the regulations in this part. Moreover, the examples set forth with respect to any particular listed program are not limited to that program alone and the prohibited actions described may also be prohibited in other programs or activities whether or not listed below.

(1) **Cooperative agricultural extension program.** (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;

(ii) Discrimination in the use in any program or activity of the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvements; or

(iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by, or in which the Cooperative Extension Service participates.

(2) **Rural electrification and rural telephone programs.** (i) Refusal or failure by a borrower to accept applications for membership or applications to purchase shares of stock, or discrimination by a borrower in the terms and conditions of membership or stock ownership, where such membership or stock ownership is a condition pre-requisite to the furnishing of electric or telephone service by the borrower, or to the receipt of any benefits or advantages related to such service;

(ii) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(iii) Denial by a borrower to any person of the benefits of improvement, expansion or upgrading, or discrimination by a borrower among consumers or subscribers in improving, expanding or upgrading, of electric or telephone service;

(iv) Discrimination by a borrower in respect of rates, or terms or conditions of service among consumers or subscribers;

(v) Exclusion by a borrower of any member or stockholder, if the borrower is a cooperative or mutual type of corporation, from participation in any meeting of members or stockholders of the borrower, discrimination among its members or stockholders in respect of the exercise of any of their rights as members or stockholders, or in the manner of the exercise of such rights; or

(vi) Exclusion by a borrower of any consumer or subscriber from, denial by a borrower to any consumer or subscriber of the use of, or discrimination by a borrower against any consumer or subscriber in his use of, any of the borrower's facilities.

(3) **Direct distribution program.** (i) Exclusion of an otherwise eligible recipient agency (school, summer camp for children, institution, welfare agency or disaster organization) or person from participation in the direct distribution program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in
different meal periods or by different seating
or serving of different food or different size
portions by recipient agencies serving pre-
pared meals containing donated foods.

(4) National school lunch program. (i) Dis-
crimination by a State agency in the
selection of schools to participate in the pro-
gram or in the assignment to schools of rates
of reimbursement.

(ii) Exclusion of any child from partici-
pation in the program.

(iii) Discrimination by school officials in
the selection of children to receive free or
reduced price lunches.

(iv) Segregation of participating children
in different lunch periods or different seat-
ing, and discrimination by serving different
food or different size portions.

(v) Failure to offer free and reduced-
price lunches, on an equitable basis in schools
of a school district in which children are
assigned to schools on the basis of race, color,
or national origin.

(5) Food stamp program. (i) Discrimi-
nation by a State agency in certifying house-
holds as eligible for the program.

(ii) Segregation or other discrimination
in the manner in which or the times at
which eligible households are issued food
coupons.

(6) Special milk program for children.
(i) Discrimination by a State agency in the
selection of schools and child-care institu-
tions to participate in the program.

(ii) Discrimination by a State agency in
the selection of needy schools to receive
reimbursement for milk served free.

(iii) Discrimination by a State agency
in the assignment of reimbursement rates
to schools and child-care institutions in or in
the adjustment of such rates, or in fixing
allowable distribution costs.

(iv) Exclusion of any child from partici-
pation in the program and segregation of
participating children in different serving
periods or different places of service.

(v) Discrimination by school officials or
child-care institutions in the selection of
children to receive free milk.

(7) Price support programs carried out
through producer associations or coopera-
tives or through persons who are required to
provide specified benefits to producers. (i) Denial of the benefits of price support for a
producers commodity.

(ii) Denial of membership or stock own-
ership to any producer by any association or
cooperative.

(iii) Discrimination among producers in
the manner of making or paying any price
support advances, loans, or payments.

(iv) Discrimination in the fees or charges
collected from or in the net gains distributed
to producers.

(v) Discrimination in the use of facilities
and services generally made available to
members or patrons under the price support
program.

(8) Forest service programs. (i) Refusal
or failure by a recipient of a permit or lease
to provide to any person the benefits from
the use of land administered by the Forest
Service, the resources therefrom, or improve-
ments thereon.

(ii) Refusal or failure by any recipient
to provide to any person the benefits from
Federal payments based on a share of the
receipts from lands administered by the
Forest Service.

(iii) Refusal or failure by any recipient
to provide to any person the benefits from
Federal assistance in cooperative programs
for the protection, development, manage-
ment, and use of forest resources.

(iv) Refusal or failure by any cooperator
or other recipient to provide to any person
the benefits from Federal assistance through
grants or advances of funds for research.

(9) Farmers Home Administration pro-
grams—(i) Direct soil and water loans to
association. (a) A borrower's denial of, or
discrimination in furnishing, services under
a program or activity financed wholly or par-
tially with the aid of the loan, as in the case
of a water supply system.

(b) A borrower's denial of, or discrimina-
tion or segregation in permitting, the use of
facilities which are part of a project financed
wholly or partially with the aid of the loan, as
in the case of a golf course, swimming
pool, tennis courts, parking areas, lounges,
dining rooms, and rest rooms of a recreation
association.

(c) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a pre-requisite to the participation in services furnished by, or the use of facilities of, the borrower which are financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such services or the use of such facilities.

(d) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(ii) Direct senior citizens rental housing loans to private nonprofit corporations and consumer cooperatives. (a) A borrower's exclusion of any person from, discrimination in the terms and conditions of eligibility for, or discrimination against or segregation of any person in, the use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan.

(b) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a condition of eligibility for use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan.

(e) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or a borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(10) Cooperative State research programs. (i) Discrimination in making available information whether published or provided through public or private statement, correspondence, demonstration or field day.

(ii) Discrimination in participation in any cooperative research program or project.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial research training benefits as a result of such employment.

§ 15.4 Assurances required.

(a) General. (1) Every application for Federal financial assistance to carry out a program to which these regulations apply, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility, shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the Act and the regulations in this part. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein, or structures thereon, the assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United
States a right to seek its judicial enforcement.

(2) In the case of real property, structures, or improvements thereon, or interests therein, which was acquired through Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved through Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the Agency concerned, such a condition and right of reverter is appropriate to the purposes of the Federal financial assistance under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Agency may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101–6.2).

(b) Every application by a State or a State Agency, including a State Extension Service, but not including an application for aid to an institution of higher education, to carry out its program or activity involving continuing Federal financial assistance to which the regulations in this part apply shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Agency to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the regulations in this part: Provided, That where no application is required prior to payment, the State or State Agency, including a State Extension Service, shall, as a condition to the extension of any Federal financial assistance, submit an assurance complying with the requirements of paragraph (b) (1) and (2) of this section.

(c) Assurances from institutions. The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution’s practices with respect to admission or other treatment of individuals or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the Agency, that the institution’s practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) Recipients other than applicants. Each recipient not required to submit an application for Federal financial assistance, shall furnish, as a condition to the extension of
any such assistance, an assurance or state-
ment as is required of applicants under para-
graphs (a), (b) (1) and (2) of this section.
(e) Elementary and secondary schools. The requirements of paragraphs (a), (b), or (d) of this section with respect to any elementary or secondary school or school sys-
tem shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part, within the earliest practical time and provides reason-
able assurance that it will carry out such plan; in any case of continuing Federal fi-
nancial assistance the said responsible official of the Department of Health, Education, and Welfare may reserve the right to re-
determine, after such period as may be specified by him, the adequacy of the plan to accom-
plish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any furtune modification of such order.
[29 F.R. 16274, Dec. 4, 1964, as amended at
32 F.R. 3967, Mar. 11, 1967]
§ 15.5 Compliance.
(a) Cooperation and assistance. Each Agency shall to the fullest extent practicable seek the cooperation of recipients in obtain-
ing compliance with the regulations and this part and shall provide assistance and guid-
ance to recipients to help them comply volun-
tarily with the regulations in this part. As a normal part of the administration of pro-
grams covered by the regulations in this part, designated personnel will in their program reviews and other activities or as specifically directed by the Agency, review the activities of recipients to determine whether they are complying with the regulations in this part. Reports by such personnel shall include state-
ments regarding compliance and instances, if any, of noncompliance. In the event of non-
compliance, the Agency shall seek to secure voluntary compliance by all appropriate means.
(b) Compliance reports. Each recipient shall keep such records and submit to the Agency timely, complete and accurate com-
pliance reports at such times, and in such form and containing such information, as the Agency may determine to be necessary to ascertain whether the recipient has complied or is complying with the regulations in this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under the regulations in this part. In general, recipients should have available for the Agency racial and ethnic data showing the extent to which mem-
bers of minority groups are beneficiaries of Federally assisted programs.
(c) Access to sources of information. Each recipient shall permit access by authorized employees of this Department during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascer-
tain compliance with the regulations in this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.
(d) Information to beneficiaries and particip-
ants. Each recipient shall make available to participants, beneficiaries, and other inter-
ested persons such information regarding the provisions of the regulations in this part and their applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Depart-
ment or its Agencies finds necessary to ap-
prise such persons of the protections against
discrimination assured them by the Act and
the regulations in this part.

§ 15.6 Complaints.

Any person who believes himself or any
specific class of individuals to be subjected
to discrimination prohibited by the regula-
tions in this part may by himself or by an
authorized representative file with the Secre-
tary or any Agency a written complaint. A
complaint must be filed not later than 180
days from the date of the alleged discrimina-
tion, unless the time for filing is extended by
the Agency or the Secretary. Such complaint
shall be promptly referred to the Office of the
Inspection General. The complaint shall be
investigated in the manner determined by the
Inspector General and such further action
taken by the Agency or the Secretary as may
be warranted.

§ 15.7 Intimidatory or retaliatory acts pro-
hibited.

No recipient or other person shall intimi-
date, threaten, coerce, or discriminate against
any individual for the purpose of interfering
with any right or privilege secured by sec-
tion 601 of the Act or the regulations in this
part, or because he has made a complaint,
testified, assisted, or participated in any man-
ner in an investigation, proceeding, or hear-
ing under the regulations in this part. The
identity of complainants shall be kept confi-
dential except to the extent necessary to carry
out the purposes of the regulations in this
part, including the conduct of any hearing or
judicial proceeding arising thereunder.

§ 15.8 Procedure for effecting compliance.

(a) General. If there appears to be a fail-
ure or threatened failure to comply with the
regulations in this part, and if the non-
compliance or threatened noncompliance
cannot be corrected by informal means, com-
pliance with the regulations in this part may
be effected by the suspension or termination
of or refusal to grant or to continue Federal
financial assistance, upon a finding, in ac-
cordance with the procedure hereinafter pre-
scribed, or by any other means authorized
by law. Such other means may include, but
are not limited to, (1) a reference to the De-
partment of Justice with a recommendation
that appropriate proceedings be brought to
enforce any rights of the United States under
any law of the United States (including other
Titles of the Act), or any assurance or other
contractual undertaking, and (2) any appli-
cable proceeding under State or local law.

(b) Noncompliance with § 15.4. If an ap-
plicant fails or refuses to furnish an assur-
ance required under § 15.4 or otherwise fails
or refuses to comply with the requirement
imposed by or pursuant to that section, Fed-
eral financial assistance may be refused in
accordance with the procedures of paragraph
(c) of this section. The Department shall not
be required to provide assistance in such a
case during the pendency of the administra-
tive proceedings under such paragraph, ex-
cept that the Department shall continue as-
sistance during the pendency of such proceed-
ings where such assistance is due and pay-
able pursuant to an application therefor ap-
proved prior to the effective date of the regu-
lations in this part.

(c) Termination of or refusal to grant or
to continue Federal financial assistance. No
order suspending, terminating or refusing to
grant or to continue Federal financial assist-
ance shall become effective until (1) the
Agency has advised the applicant or recipient
of his failure to comply and has determined
that compliance cannot be secured by volun-
tary means, (2) there has been an express
finding on the record, after opportunity for
hearing, of a failure by the applicant or re-
cipient to comply with the requirement im-
posed by or pursuant to the regulations in this
part, (3) the action has been approved by the
Secretary pursuant to § 15.10(e), and
(4) the expiration of 30 days after the Sec-
retary has filed with the committee of the
House and the committee of the Senate, hav-
ing legislative jurisdiction over the program
involved, a full written report of the circum-
stances and the grounds for such action. Any
action to suspend or terminate or to refuse
to grant or to continue Federal financial as-
sistance shall be limited to the particular
political entity, or part thereof, or other ap-
plicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until (1) the Secretary has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least ten days from the mailing of such notice to the recipient or other person. During this period of at least ten days, additional efforts shall be made to persuade the recipient or other person to comply with the regulations in this part and to take such corrective action as may be appropriate.

§ 15.9 Hearings.

(a) Opportunity for hearing. Whenever an opportunity for a hearing is required under the regulations in this part, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Secretary or the Agency that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hear-

(b) Time and place of hearing. Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the hearing officer or by the Secretary unless it is determined that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing officer.

(c) Right to counsel. In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) Procedures, evidence, and record. (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5 U.S.C. 554-557, and in accordance with such rules of procedure promulgated by the Secretary as not inconsistent with this section, relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to these regulations in this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon
the hearing record and written findings shall be made.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted to constitute noncompliance with these regulations with respect to two or more programs to which the regulations in this part apply, or noncompliance with the regulations in this part and the regulations of one or more other Federal Departments or Agencies issued under Title VI of the Act, the Secretary may, by agreement with such other Departments or Agencies, where applicable provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with the regulations in this part. Final decisions in such cases, insofar as the regulations in this part are concerned, shall be made in accordance with § 15.10.

§ 15.10 Decisions and notices.

(a) Decision by hearing officer or Secretary. (1) The hearing officer shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings, and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. The applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Secretary his exceptions to the initial decision, with his reasons therefor.

(2) In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Secretary.

(b) Decisions on record or review. Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing officer pursuant to paragraph (a), the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Secretary shall be given in writing to the applicant or recipient, and to the complainant, if any.

(c) Decisions on record where a hearing is waived. Whenever a hearing is waived pursuant to § 15.9(a), a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) Rulings required. Each decision of a hearing officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

(e) Decision by Secretary. The Secretary shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under the regulations in this part of the Act.

(f) Content of orders. The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and the regulations in this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

(g) Post termination proceedings. (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for
such eligibility or if it brings itself into compliance with the Act and the regulations in this part and provides reasonable assurance that it will fully comply therewith. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 15.4 (a), (b), or (d) shall be restored to full eligibility to receive Federal financial assistance if it complies with the requirements of a § 15.4 (e) and is otherwise in compliance with the Act and the regulations in this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g) (1) of this section. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the denial to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure set forth in Subpart C of this part. The applicant or recipient will be restored to such eligibility if it proves at such a hearing, that it has satisfied the requirements of paragraph (g) (1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 15.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 15.12 Effect on other regulations; forms and instructions.

(a) Effect on other regulations. All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which the regulations in this part apply, and which authorize the suspension or termination of or refusal to grant or continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by the regulations in this part, except that nothing in the regulations in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of the regulations in this part. Nothing in these regulations, however, shall be deemed to supersede any of the following including future amendments thereof: (1) Executive Order 11246 and regulations issued thereunder; or (2) Executive Order 11063 and regulations issued thereunder or any other regulations or instructions insofar as they prohibit discrimination on the ground of race, color, or national origin in any program or situation to which the regulations in this part are inapplicable, or prohibit discrimination on any other ground.

(b) Forms and instructions. Each Agency shall issue and promptly make available forms and such implementing instructions and procedures consistent with the regulations in this part as may be necessary. Each Agency in making available Federal financial assistance to any program or activity may utilize contractual commitments in obtaining compliance with the regulations in this part, including obtaining compliance by recipients other than the contracting recipient.

(c) Supervision and coordination. The Secretary may from time to time assign to officials of other Departments or Agencies of the Government with the consent of such Department or Agency, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and the regulations in this part (other than responsibility for final decision as provided in § 15.10) including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of the regulations and procedures for the prevention and elimination of discrimination against individuals on the ground of race, color, or national origin.
of Title VI and these regulations to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting under this paragraph shall have the same effect as though such action had been taken by the Secretary or an Agency of this Department.

Appendix

Federal Financial Assistance of the Department of Agriculture Covered by Title VI of the Civil Rights Act of 1964

Programs Administered by the Farmers Home Administration in Which Federal Assistance Is Rendered, Including But Not Limited to the Following Activities:

5. Technical Assistance Grants; section 523(b) (1) (A) of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
6. Rural Housing Self Help Site Loans; section 523(b) (1) (B) of the Housing Act of 1949, as amended, 42 U.S.C. 1490c.
7. Rural Housing Site Loans; section 524 of the Housing Act of 1949, 42 U.S.C. 1490d.
9. Farm Ownership Loans to install or improve recreational facilities or other nonfarm enterprises; 7 U.S.C. 1923 (2) and (3).
11. Operating Loans to install or improve recreational facilities or other nonfarm enterprises, 7 U.S.C. 1942(a), (5), and (6).
12. Community Facilities Programs, including shift in land use projects, planning advances, recreation, association loans for irrigation; section 306(a) (1) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1926(a) (1).
13. Community Facilities Programs, grants for water and waste; section 306(a) (2) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1926(a) (2).
14. Loans for Rural Industrialization Assistance under section 310(B) (a) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1932(a).
15. Private Business Enterprises, grants under section 310(B) (c) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1932(c).
16. Pollution Abatement Projects, grants under Section 310(B) (b) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1932(b).
17. Loans for Timber Development, section 204, Title II, Appalachian Regional Development Act, 40 U.S.C. App. 204.
18. Loans under the Resource Conservation and Development loan program pursuant to section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1011(e).
19. Financial and other assistance to landowners, operators, or occupiers to carry out land uses and conservation, Appalachian Regional Development Act, 40 U.S.C. App. 203.
20. Financial assistance to States and their political subdivisions to provide housing and related facilities for rural trainees under section 522 of the Housing Act of 1949, as amended, 42 U.S.C. 1490b.
21. Loans, technical assistance, and preliminary advances under the Rural Renewal loan program pursuant to section 32(e) of the Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1011(e).

Administration and Management of National Forests and National Grasslands, and Other Lands Administered by the Forest Service in Which Federal Assistance Is Rendered, Including But Not Limited to the Following Activities:


29. Permits for use of fire improvements and land by States and political subdivisions, corporations, firms, associations, and individuals, section 7 of the Act of April 24, 1950, 16 U.S.C. 580d.


31. Transfer of fire-lookout towers, improvements, and land to States and political subdivisions; section 5 of Act of June 20, 1958 (16 U.S.C. 565b).


33. Revenue sharing payment to States: (a) Payment of 25 percent of National Forest receipts to States for schools and roads, Act of May 23, 1908, as amended, 16 U.S.C. 500. (b) Payment to Minnesota from National Forest receipts of a sum based on a formula, section 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577g-1. (c) Payment to New Mexico and Arizona of proportion of National Forest receipts for common-school fund, sections 6 and 24, Act of June 20, 1910, 36 Stat. 557, 562, 573. (d) Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act, lands to counties for school and road purposes or both, section 33, Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1012.


41. Financial assistance to private timber organizations to carry out timber development programs, section 204 of the Appalachian Regional Development Act, 40 U.S.C. App. 204.

RESEARCH PROGRAMS OF THE FOREST SERVICE IN WHICH FEDERAL ASSISTANCE IS RENDERED, INCLUDING BUT NOT LIMITED TO THE FOLLOWING ACTIVITIES:

...


OTHER PROGRAMS OF THE DEPARTMENT


58. Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, cotton, rice, honey, dry edible beans, tung oil, naval stores and soybeans price support programs). Agricultural Act of 1949, as amended, 7 U.S.C. 1421 et seq., Commodity Credit Corporation Charter Act, 15 U.S.C. 714 et seq.

59. Surplus removal program operated through purchase or diversion payments in which the recipient under the program is required to provide specified benefits to producers, section 32 of the Act of August 24, 1935, 7 U.S.C. 612c.


63. Assistance under the Poultry Products


69. Payments for Marketing Service Work Under Section 204(b) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1623(b).


Any such complaint filed with any agency of the Department not having responsibility therefor shall be forwarded to the appropriate agency or to the Secretary.

(d) The investigative function with respect to complaints authorized by paragraph (a) of this section shall be discharged by the Office of the Inspector General in the manner determined by the Inspector General.

[31 F.R. 8175, June 10, 1966]

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

AUTHORITY: The provisions of this Subpart C issued under sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1 sec. 15.9(d) of Subpart A to 7 CFR, Part 15, and laws referred to in the Appendix to Subpart A, Part 15, Title 7 CFR.

Source: The provisions of this Subpart C appear at 30 F.R. 14355, Nov. 17, 1965, unless otherwise noted.

GENERAL INFORMATION

§ 15.60 Scope of rules.

The rules of practice and procedure in this subpart supplement §§ 15.9—15.10 of Subpart A of this part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Agriculture, pursuant to Title VI of the Civil Rights Act of 1964, section 602 (78 Stat. 252) and this part, Title 7, CFR, except these rules shall not apply to any stage of a proceeding which has occurred prior to the effective date hereof.

§ 15.61 Records to be public.

All documents and papers filed in any proceeding under this part may be inspected and copied in the Office of the Department Hearing Clerk.

§ 15.62 Definitions.

All terms used in this subpart shall, unless the context otherwise requires, have the same meaning as defined in Subpart A of this part.
75. Rural Development Act of 1972, Title V, 7 U.S.C. 2661 et seq.
76. Disaster and distress assistance through State and other agencies, 7 U.S.C. 1427.

JOSEPH R. WRIGHT, JR.,
Acting Assistant Secretary for Administration, Office of the Secretary.

OCTOBER 18, 1974.
[FR Doc. 74–24856 Filed 10–23–74; 8:45 am]

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

AUTHORITY: 5 U.S.C. 301.

§ 15.50 Applicability.

The regulations in this subpart complement Subpart A of this part and cover those programs and activities of the Department not subject thereto in which the Department or any agency thereof makes available any benefit directly to persons under such programs and activities.

[29 F.R. 16966, Dec. 11, 1964]

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall, on the ground of race, color, religion, sex, or national origin deny to any person in the United States (1) equal access to buildings, facilities, structures, or lands under the control of any agency of this Department or (2) under any program or activity of the Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

[FR Doc. 73–17372 Filed 8–20–73]

§ 15.52 Complaints.

(a) Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by the regulations in this subpart may by himself or by an authorized representative file a written complaint based on the ground of such discrimination. No particular form of complaint shall be required. The complaint must be filed within 90 days from the date of the alleged discrimination unless the Secretary extends the time for filing. Any person who complains of discrimination shall be advised of his right to file a complaint as herein provided and each agency of the Department dealing with the public shall post in a conspicuous place in its office notice of the right to file a complaint under this subpart.

(b) Notwithstanding the foregoing provisions of this section, any complaint filed hereunder, to the extent that it involves a determination, decision or action under a program or activity covered by this subpart, shall be handled in accordance with the procedures established by law or regulation of the Department or any of its agencies for the handling of complaints or appeals under such program or activity which are not based on grounds of discrimination prohibited by this subpart: Provided, That the officer, committee or other employee receiving a complaint based on discrimination shall immediately furnish a notice and a factual report thereof to the Secretary in accordance with procedures established by each agency. Each action taken on any such complaint shall likewise be reported to the Secretary.

(c) Any complaint authorized by paragraph (a) of this section involving matters within the responsibility of an agency which has no complaint or appeal procedure established by law or regulations, may be filed directly with the Secretary of Agriculture.
The intervener may submit and serve on all parties a brief in support or opposition to any brief of a party. All service and notice required by and upon a party shall apply to an intervener.

§ 15.68 Ex parte communications.

(a) General. After proceedings have been commenced, any communication or discussion ex parte, as regards the merits of the proceeding or a factually related proceeding, between an employee of the Department involved in the decisional process and a person not employed by the Department, and any such communication or discussion between any employee of the Department, who is or has been engaged in any way in the investigation or prosecution of the proceeding or a factually related proceeding, and an employee of the Department who is involved or may be involved in the decisional process of a proceeding, except at a conference, hearing or review proceeding under these rules is improper and prohibited.

(b) Request for information. A request for information about the status of a proceeding without discussing issues or expressing points of view and inquiries with respect to procedural matters or an emergency request for an extension of time are not deemed ex parte communications. When practical all parties should be notified of any request for an extension of time. Communication between an applicant or recipient and the agency or the Secretary with respect to securing voluntary compliance with any requirement of Subpart A of this part is not prohibited.

(c) Un-sponsored written material. Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a proceeding will be placed in the correspondence section of the docket of the proceeding. Such are not deemed part of the evidence or record.

FORM, EXECUTION, FILING AND SERVICE DOCUMENTS

§ 15.71 Form of documents to be filed.

All copies of documents filed in a proceeding shall be dated, signed in ink, shall show the address and position or title of the signatory, and shall show the docket number and title of the proceeding on the front page.

§ 15.72 Filing.

All documents relating to a proceeding under this subpart shall be filed in an original and two copies of such document with the Office of the Hearing Clerk at Room 112, Administration Building, Department of Agriculture, Washington, D.C., 20250, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time.

§ 15.73 Service.

Service shall be made by the Hearing Clerk by personal delivery of one copy to each person to be served or by mailing by first-class mail, or air mail if more than 300 miles, properly addressed with postage prepaid. When a party or intervener has appeared by attorney or representative, service upon such attorney or representative will be deemed proper service. The initial notice of hearing, opportunity to request a hearing, or notice setting a date for a hearing shall be by certified mail, return receipt requested.

§ 15.74 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice a hearing or notice of opportunity to request a hearing or notice setting a date for a hearing shall be the date of its delivery, or of its attempted delivery if delivery is refused.

INITIAL NOTICE AND RESPONSE

§ 15.81 How proceedings are commenced.

Proceedings are commenced by mailing a notice to an applicant or recipient of alleged noncompliance with the Act and the Secretary’s regulations thereunder. The notice will be signed by the interested agency head or by the Secretary and shall be filed with the
hearing clerk for proper service by the hearing clerk according to the rules of this subpart. The notice shall include either a notice of hearing or notice of opportunity to request a hearing as determined by the Secretary and shall comply with the requirements of § 15.9(a).

§ 15.82 Notice of hearing and response thereto.

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of a hearing on matters alleged in the notice. If the applicant or recipient does not desire a hearing, he should so state in writing, in which case the applicant or recipient shall have the right to submit written information and argument for the record, and the additional right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.83 Notice of opportunity to request a hearing and response thereto.

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of said notice within which the applicant or recipient may file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case, the applicant or recipient shall have the right to further participate in the proceeding. Failure of the applicant or recipient to request a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing. Failure of the applicant or recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing, under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.84 Answer.

In any case covered by § 15.82 or § 15.83 the applicant or recipient shall file an answer. Said answer shall admit or deny each allegation of the notice, unless the applicant or recipient is without knowledge, in which case the answer shall so state, and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters intended to be offered as affirmative defenses must be stated as a separate part of the answer. The answer under § 15.82 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 15.83 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

§ 15.85 Amendment of notice or answer.

The notice of hearing or notice of opportunity to request a hearing may be amended once as a matter of course before an answer thereto is served, and each applicant or recipient may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the hearing officer. An applicant or recipient shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the hearing officer otherwise orders.

§ 15.86 Consolidated or joint hearings.

Two or more proceedings against the same respondent, or against different respondents in which the same or related facts are asserted to constitute noncompliance, may be consolidated for hearing or decision or both by the agency head, if he has the principal responsibility within the Department for the administration of all the laws extending the Federal financial assistance involved. If laws administered by more than one agency head
are involved, such officials may by agreement order consolidation for hearing. The Secretary may order proceedings in the Department consolidated for hearing with proceedings in other Federal Departments or Agencies, by agreement with such other Departments or Agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or notice of opportunity to request a hearing shall be promptly served with notice of such consolidation.

HEARING OFFICER

§ 15.91 Who presides.

A hearing officer shall preside over all proceedings held under this part. The hearing officer shall be a hearing examiner qualified under section 11 of the Administrative Procedure Act (5 U.S.C. 1001 et seq.), and designated to hold hearings under the regulations in this subpart or any person authorized to hold a hearing and make a final decision. The hearing officer will serve until he has made an initial decision, certified the record to the Secretary, or made a final decision if so authorized.

§ 15.92 Designation of hearing officer.

Unless otherwise provided by an order of the Secretary at the time the notice of alleged noncompliance provided in § 15.81 is filed with the Office of the Hearing Clerk, the hearing shall be held before a hearing examiner, who shall be appointed by the Chief Hearing Examiner, Office of Hearing Examiners within five days after the filing of such notice. Unless otherwise provided, the hearing examiner shall certify the entire record with his recommended findings and proposed decision to the Secretary for final decision.

§ 15.93 Time and place of hearing.

When a notice of hearing is sent to an applicant or recipient, the time and place of hearing shall be fixed by the Secretary, and when the applicant or recipient requests a hearing, the time and place shall be set by the hearing officer and in either case in conformity with § 15.9(b). The complainant, if any, shall be advised of the time and place of the hearing.

§ 15.94 Disability of hearing officer.

In the case of death, illness, disqualification, or unavailability of the designated hearing officer, another hearing officer may be designated by the Secretary to take his place. If such death, illness, disqualification or unavailability occurs during the course of a hearing, the hearing will be either continued under a substitute hearing officer, or terminated and tried de novo in the discretion of the Secretary. In the absence of the designated hearing officer any hearing examiner may rule on motions and other interlocutory papers.

§ 15.95 Responsibilities and duties of hearing officer.

The hearing officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time and place of hearings, or, upon due notice to the parties, to change the date, time and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and interveners to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of parties therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) In accordance with his authority issue an initial decision, or recommended findings and proposed decision, or final decision.
(k) Take any other action a hearing officer is authorized to take under these rules or Subpart A of this part.

**MOTIONS**

§ 15.101 Form and content.

(a) General. Motions shall state the relief sought and the authority relied upon. If made before or after the hearing, the motion shall be in writing and filed with the hearing clerk with a copy to all parties. If made at the hearing, they should be stated orally but the hearing officer may require that any motion be reduced to writing and filed and served on all parties in the same manner as a formal motion.

(b) Extension of time or postponement. A request for an extension of time should be filed and served on all parties and should set forth the reasons for the request and may be granted upon a showing of good cause. Answers to such requests are permitted, if made promptly.

§ 15.102 Responses to motions.

Within 8 days or such reasonable time as may be fixed by the hearing officer, or Secretary, if the motion is properly addressed to him, any party may file a response to the motion, unless the motion is made at a hearing in which case an immediate response may be required. The hearing officer may dispose of motions at a prehearing conference.

§ 15.103 Disposition of motions.

The hearing officer may not sustain or grant a motion prior to expiration of the time for filing responses thereto, but may overrule or deny such motion without waiting on a response: Provided, however, That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Oral motions may be ruled on immediately. Motions submitted to the hearing officer not disposed of in separate rulings or in his decision will be deemed denied. Oral argument shall not be held on written motions unless expressly ordered. Interlocutory appeals from rulings on motions shall be governed by § 15.123.

**HEARING PROCEDURES**

§ 15.110 Prehearing conferences.

(a) In any case in which it appears that such procedure will expedite the proceeding, the hearing officer may, prior to the commencement of the hearing, request the parties to meet with him or to correspond with him regarding any of the following:

1. Simplification and clarification of the issues;
2. Necessity or desirability of amendments to the pleadings;
3. Stipulations, admissions of fact and of the contents and authenticity of documents;
4. Matters of which official notice will be taken;
5. Limitation of the number of experts or other witnesses;
6. Disposal of all motions; and
7. Such other matters as may expedite and aid in the disposition of the proceeding.

(b) The hearing officer shall enter in the record a written summary of the results of the conference or correspondence with the parties.

§ 15.111 Purpose of hearing.

(a) The hearing is directed to receive factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda or briefs, as determined by the hearing officer. Brief opening statements, which shall be limited to a statement of the party's position and what he intends to prove, may also be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Subpart A of this part. In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the hearing officer may enter an order so finding, and fixing the time for the submis-
sion of evidence by the Government for the record. Thereafter, the proceedings shall go to conclusion in accordance with Subpart A of this part and the rules of this subpart. An appeal from such order may be allowed in accordance with the rules for interlocutory appeal in § 15.123.

§ 15.112 Statement of position and brief.

The hearing officer may require all parties and any intervenor to file a written statement of position or brief prior to the beginning of a hearing.

§ 15.113 Testimony.

(a) Testimony shall be given orally under oath or affirmation by witnesses at the hearing, but the hearing officer, in his discretion, may require or permit that the testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the hearing officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 15.115 and 15.116, witnesses shall be available at the hearing for cross-examination.

(b) Proposed exhibits shall be exchanged either at a prehearing conference, or otherwise prior to the hearing. Proposed exhibits not so exchanged may be denied admission as evidence unless good cause is shown why they were not exchanged. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 15.115 Affidavits.

An affidavit, intended to be used as evidence without cross-examination of the affiant, will be filed and served on the parties at least 15 days prior to the hearing; and not less than seven days prior to hearing a party may file and serve written objections to any affidavit on the ground that he believes it necessary to test the truth of assertions therein by cross-examination. In such event, the affidavit objected to will not be received in evidence unless the affiant is made available for cross-examination at the hearing or otherwise as prescribed by the hearing officer. In absence of an objection being filed within the time specified, such affidavit will be received in evidence.

§ 15.116 Depositions.

Upon such terms as may be just, the hearing officer, in his discretion, may authorize the testimony of any witness to be taken by deposition.

§ 15.117 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded, and technical rules of evidence shall not apply but rules or principles designed to assure the most credible evidence available and to subject testimony to test by cross-examination shall apply.

§ 15.118 Cross-examination.

Cross-examination will be limited to the scope of direct examination and matters at issue in the hearing.

§ 15.119 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon. The ruling of the hearing officer will be part of the record. Argument in support of the objection will not be part of the record.

§ 15.120 Exceptions to rulings of hearing officer unnecessary.

Exceptions to rulings of the hearing officer are unnecessary. It is sufficient that a party, at the time the ruling of the hearing officer is sought, makes known the action which he desires the hearing officer to take, or his objection to an action taken, and his grounds therefor.

§ 15.121 Official notice.

A public document, or part thereof, such as an official report decision, opinion, or published scientific or economic statistical data issued by any branch of the Federal or a State Government which has been shown to be reasonably available to the public, may be
offered for official notice and accepted in the record without further proof of authenticity. Where official notice is to be taken, any party, on timely request, shall have an opportunity to show the contrary.

§ 15.122 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing officer rejecting or excluding proposed oral testimony shall consist of a statement for the record of the substance of the evidence which counsel contends would be adduced by such testimony, and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as an offer of proof.

§ 15.123 Appeals from ruling of hearing officer

A ruling of the hearing officer may not be appealed to the Secretary prior to consideration of the entire proceeding by the hearing officer except with the consent of the hearing officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any part or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Secretary within such period as the hearing officer directs. Oral argument will be heard in the discretion of the Secretary.

§ 15.124 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the hearing officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the hearing officer may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny, such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

[31 F.R. 8586, June 21, 1966]

THE RECORD

§ 15.131 Official transcript.

The hearing clerk will designate the official reporter for all hearings. The official transcript of testimony taken, together with any affidavits, exhibits, depositions, briefs, or memoranda of law shall be filed with the hearing clerk. Transcripts of testimony in hearings will be supplied by the official reporter to the parties and to the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties the hearing officer may authorize corrections to the transcript which involve matters of substance.

§ 15.132 Record for decision.

The transcript of testimony, exhibits, affidavits, depositions, briefs, memoranda of law, and all pleadings, motions, papers, and requests filed in the proceeding, except the correspondence section of the docket, including rulings, and any recommended findings and proposed decision, or initial decision shall
§ 15.135 Posthearing briefs.

The hearing officer shall fix a reasonable time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs. Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon. Briefs shall be filed in the Office of the Hearing Clerk with a copy to all parties.

§ 15.136 Decisions and notices.

When the time for submission of posthearing briefs has expired the hearing officer shall either make an initial decision or final decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision and a copy of such initial, or final decision or certification shall be mailed to the applicant or recipient and other parties by the hearing clerk.

§ 15.137 Exceptions to initial or proposed decision.

Within 30 days of the mailing of such notice of initial or recommended findings and proposed decision, the applicant or recipient and other parties may file with the hearing clerk for consideration by the Secretary exceptions to the initial or recommended findings and proposed decision, with reasons therefor. Each party will be given reasonable opportunity to file briefs or other written statements of contentions in which the party may request that the decision be modified, reversed, affirmed or adopted.

§ 15.138 Review of initial decision.

In the absence of exceptions to an initial decision, the Secretary may on his own motion within 45 days after an initial decision serve upon the parties a notice that he will review the decision and will give the parties reasonable opportunity to file briefs or other

written statements of contentions. At the expiration of said time for filing briefs, the Secretary will review the initial decision and issue a final decision thereon. In the absence of either exceptions to an initial decision or a notice or review, the initial decision shall constitute the final decision, of the Secretary.

§ 15.139 Oral argument.

If any party desires to argue orally before the Secretary on the review of recommended findings and proposed decision, or an initial decision, he shall so state at the time he files his exceptions or brief. The Secretary may grant such request in his discretion. If granted, he will serve notice of oral argument on all parties and will set forth the order of presentation and the amount of time allotted, and the time and place of argument:

§ 15.140 Service of decisions.

All final decisions shall be promptly served on all parties and the complainant.

§ 15.141 Contents of decision.

Each decision of a hearing officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

§ 15.142 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and the regulations in this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it
corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

§ 15.143 Decision where financial assistance affected.

The Secretary shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under the regulations in this part or the Act.
PART 18—EQUAL EMPLOYMENT OPPORTUNITY IN THE STATE COOPERATIVE EXTENSION SERVICES

Sec. 18.1 Definitions.
18.2 Purpose, applicability and coverage.
18.3 Development and adoption of equal employment opportunity programs.
18.4 Elements of program.
18.5 Formal complaint procedure.
18.6 [Reserved]
18.7 Reports.
18.8 Noncompliance.
18.9 Sanctions.

SOURCE: 33 FR 12173, Aug. 26, 1968, unless otherwise noted.

§18.1 Definitions.

For the purpose of this part:
(a) Secretary means the Secretary of Agriculture of the United States or his designee.
(b) Cooperative Extension Service means the Cooperative Extension Service of each Land-Grant University.
(c) President means the President or chief executive of each Land-Grant University or his designee.
(d) Discrimination includes discrimination on the basis of race, color, national origin, sex, or religion.
(e) Employment includes hiring, assignment, transfer, promotion, compensation, discipline, and discharge and all other conditions, terms and privileges of employment.
(f) Program means a comprehensive Equal Employment Opportunity plan submitted by a President in satisfaction of the requirements of §18.3.

§18.3 Purpose, applicability and coverage.

(a) Purpose. This part provides a cooperative procedure involving the President and Secretary to assure that the Cooperative Extension Service provides equal opportunity in employment to each individual without regard to race, color, national origin, sex, or religion.
(b) Applicability. The regulations in this part apply to every Land-Grant University operating a Cooperative Extension Service.
(c) Coverage. This part applies to all positions in all units of the Cooperative Extension Service but does not apply to employees provided by county and other political subdivisions in support of Cooperative Extension Service programs.


§18.3 Development and adoption of equal employment opportunity programs.

(a) Submission. Within 90 days after the effective date of this part, the President shall furnish to the Secretary a positive continuing program to assure that employment is provided without discrimination.
(b) Development. The President and the Secretary may consult with each other at any time regarding the development and evaluation of the program in order to better effectuate the purpose of this part. The program may be a part of a general program establishing employment procedures for employees of the university and may cover other rights and privileges of employees.
(c) Concurrency. The Secretary may concur with the program proposed by the President. If the Secretary does not concur with the proposed program, he shall inform the President and make suggestions for improvement. The President will have 30 days thereafter to furnish a satisfactory proposal.
(d) Amendment. After concurrence has been obtained on the program, the President may make recommendations to amend the program to improve its effectiveness and furnish them to the Secretary for concurrence.
(e) Effective date. The program or amendments to it shall be made effective by the President not later than 30 days from the date of concurrence.

§18.4 Elements of program.

A satisfactory program shall include:
(a) A statement of policy prohibiting discrimination in employment;
(b) An administrative procedure enforcing that policy;
(c) A positive affirmative action plan designed to assure equal opportunity in employment;
(d) A procedure for identifying and eliminating employment practices tending to create or continue discrimination in employment;
(e) A procedure for evaluating the success of the program;
(f) Adequate provision for publicizing the program including dissemination of information to all those covered by these regulations;
(g) A procedure for prompt processing of complaints assuring no less than minimum rights prescribed in §18.5;
(h) Adequate provisions for the protection of complainants, employees, witnesses, and representatives from interference, harassment, intimidation and reprisal.
shall be complainant.

President may extend the time limit for the President or his designee for processing of the complaint, which may be available under a program adopted pursuant to the Secretary's program in accordance with §118.3, or fail. The President, and the complainant Is not satisfied with the result of informal procedure or if the complaint does not desire to follow the informal procedure. A complaint procedure shall contain the following:

(a) Form of the formal complaint. The formal complaint shall be in writing and state the name and address of the complainant; the basis of the claim; and indicate whether the alleged discrimination was based on race, color, national origin, sex, or religion.

(b) Time limits for processing. The procedure will include time limits for the orderly processing of complaints.

(c) Who may file. A complaint may be filed by an employee, a former employee, or an applicant for employment who believes that discrimination in employment has been practiced against him or that an employment practice in the Cooperative Extension Service has or will result in discrimination in employment against him. An employee, a former employee, or an applicant for employment, or an organization may file a complaint of general discriminatory practices: Provided, however, That upon request of the President, the complainant shall furnish to him names of individuals who are adversely affected by those practices.

(d) Right of representation. A complainant may designate in writing an individual or an organization to represent him in the processing of his complaint, and is entitled to the advice of counsel at his expense at all stages of the proceeding. If the representative designated by the complainant is an employee of the U.S. Department of Agriculture, or of a Cooperative Extension Service, such employee, as well as an employee-complainant, shall have a reasonable amount of official time with pay, if he is in a pay status, for the purpose of appearing at any hearing on the complaint or conciliation effort. The rights and privileges set forth in this paragraph shall also be available to any person whose alleged conduct is the cause of the complaint.

(e) Where filed. The procedure shall clearly state the persons, and their locations, with whom complaints may be filed. It shall also state that complaints may be filed with the Secretary. Complaints filed with the Secretary shall be promptly forwarded to the President or his designee for processing.

(f) When filed. A complaint shall be submitted within 60 days of the conduct giving rise to the complaint. The President may extend the prescribed time limit for good cause shown by the complainant.

(g) Hearing. A complainant or the President may request a hearing which shall be transcribed or recorded. The hearing shall be conducted promptly during regular working hours in the county where the alleged discrimination occurred or at a time and place agreed to by the President and the complainant. The President, the complainant and any person whose alleged conduct is the cause of the complaint shall have the right to call and cross-examine witnesses. The hearing shall be provided by the President, and shall be conducted by an impartial board or hearing officer who shall promptly submit a proposed decision including findings of fact, conclusions, and recommendations for action to the President.

(h) Decision by the President. The President shall review the entire file on the complaint, including the record of the hearing if a hearing was held, and shall promptly:

(1) Remand to the hearing board or officer for further action; or

(2) Make a decision on the complaint; or

(3) Otherwise dispose of the complaint.

The President shall notify the complainant of his decision or disposition.


§ 18.8 Noncompliance.

A university conducting a Cooperative Extension Service will be in violation of this part:

(a) If the President fails to file a program in which the Secretary concurs under §18.3, or fails to file an appropriate amendment in accordance with §18.3(d);

(b) If after concurrence in the President's program the Secretary finds that a university has failed to administer such program according to its terms;

(c) If the Secretary finds that any officer of the university has intimidated, coerced, or improperly pressured a complainant, employee, representative, or witness exercising the rights given him by this part or any program adopted pursuant thereto, and that corrective action has not been taken.


§ 18.9 Sanctions.

(a) When the Secretary finds that any noncompliance with this part has occurred, he may initiate action to refuse to authorize payment of funds for the Cooperative Extension Service, or take other appropriate action provided by law.

(b) The remedies available to the Secretary under this part, and remedies made available to any person under a program adopted pursuant to this part do not exclude any others which may be available under law.