President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

(b) Administrative enforcement; complaints; investigations; departmental action

If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) Waiver by President; national interest special circumstances for waiver of particular agreements; waiver by Secretary of Labor of affirmative action requirements

(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this chapter.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,[1] of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(e) Avoidance of duplicative efforts and inconsistencies

The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(Pub. L. 93–112, title V, § 503, Sept. 26, 1973, 87 Stat. 393; Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title X, §§ 1001(f)(2), (3), 1002(e)(3), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(c), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(31), title V, § 505, Oct. 29, 1992, 106 Stat. 4360, 4427.)

Editorial Notes

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (d) and (e), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §§ 102(p)(31)(A), 505(a), substituted ''$10,000'' for ''$2,500'' in two places, struck out '', in employing persons to carry out such contract,'' after ''contain a provision requiring that'', and substituted ''individuals with disabilities'' for ''individuals with handicaps as defined in section 706(8) of this title''.

Subsec. (b). Pub. L. 102–569, § 102(p)(31)(B), substituted ''individual with a disability'' for ''individual with handicaps'' and ''individuals with disabilities'' for ''individuals with handicaps''.

Subsec. (c). Pub. L. 102–569, § 505(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, § 505(c), added subsecs. (d) and (e).

1988—Subsec. (a). Pub. L. 100–630, § 206(c)(1), inserted a comma after ''to carry out such contract''.

Subsec. (b). Pub. L. 100–630, § 206(c)(2), substituted ''refused'' for ''refuses''.

Subsec. (c). Pub. L. 100–630, § 206(c)(3), substituted ''which the President'' for ''which The President'' and ''when the President'' for ''when The President''.

1986—Subsec. (a). Pub. L. 99–506, §§ 103(d)(2)(C), 1002(e)(3), substituted ''individuals with handicaps'' for ''handicapped individuals'' and ''section 706(8) of this title'' for ''section 706(7) of this title''.

Subsec. (b). Pub. L. 99–506, §§ 103(d)(2)(B), (C), 1001(f)(2), substituted ''individual with handicaps'' for ''handicapped individual'', ''individuals with handicaps'' for ''handicapped individuals'', and ''a contract'' for ''his contract''.

Subsec. (c). Pub. L. 99–506, § 1001(f)(3), substituted ''The President'' for ''he'' in two places and substituted ''the reasons'' for ''his reasons''.

1978—Subsec. (a). Pub. L. 95–602 substituted ''section 706(7) of this title'' for ''section 706(6) of this title''.

§ 794. Nondiscrimination under Federal grants and programs

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assist-

[1] See References in Text note below.

ance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(b) "Program or activity" defined

For the purposes of this section, the term ''program or activity'' means all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of career and technical education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,[1] of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(Pub. L. 93–112, title V, §504, Sept. 26, 1973, 87 Stat. 394; Pub. L. 95–602, title I, §§119, 122(d)(2), Nov. 6, 1978, 92 Stat. 2982, 2987; Pub. L. 99–506, title I, §103(d)(2)(B), title X, §1002(e)(4), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 100–259, §4, Mar. 22, 1988, 102 Stat. 29; Pub. L. 100–630, title II, §206(d), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, §102(p)(32), title V, §506, Oct. 29, 1992, 106 Stat. 4360, 4428; Pub. L. 103–382, title III, §394(i)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–220, title IV, §408(a)(3), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 107–110, title X, §1076(u)(2), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 113–128, title IV, §456(c), July 22, 2014, 128 Stat. 1675; Pub. L. 114–95, title IX, §9215(mmm)(3), Dec. 10, 2015, 129 Stat. 2188.)

Editorial Notes

REFERENCES IN TEXT

The amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, referred to in subsec. (a), mean the amendments made by Pub. L. 95–602. See 1978 Amendments note below.

The Americans with Disabilities Act of 1990, referred to in subsec. (d), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (b)(2)(B). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2014—Subsec. (b)(2)(B). Pub. L. 113–128 substituted ''career and technical education'' for ''vocational education''.

2002—Subsec. (b)(2)(B). Pub. L. 107–110 substituted ''section 7801 of title 20'' for ''section 8801 of title 20''.

1998—Subsec. (a). Pub. L. 105–220 substituted ''section 705(20)'' for ''section 706(8)''.

1994—Subsec. (b)(2)(B). Pub. L. 103–382 substituted ''section 8801 of title 20'' for ''section 2891(12) of title 20''.

1992—Subsec. (a). Pub. L. 102–569, §102(p)(32), substituted ''a disability'' for ''handicaps'' and ''disability'' for ''handicap'' in first sentence.

Subsec. (d). Pub. L. 102–569, §506, added subsec. (d).

1988—Subsec. (a). Pub. L. 100–630, §206(d)(1), substituted ''her or his handicap'' for ''his handicap''.

Pub. L. 100–259, §4(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 100–259, §4(2), added subsec. (b).

Subsec. (b)(2)(B). Pub. L. 100–630, §206(d)(2), substituted ''section 2891(12) of title 20'' for ''section 2854(a)(10) of title 20''.

Subsec. (c). Pub. L. 100–259, §4(2), added subsec. (c).

1986—Pub. L. 99–506 substituted ''individual with handicaps'' for ''handicapped individual'' and ''section 706(8) of this title'' for ''section 706(7) of this title''.

1978—Pub. L. 95–602 substituted ''section 706(7) of this title'' for ''section 706(6) of this title'' and inserted pro-

[1] See References in Text note below.

vision prohibiting discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service and requiring the heads of these agencies to promulgate regulations prohibiting discrimination.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100–259 not to be construed to extend application of this chapter to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

Amendment by Pub. L. 100–259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of Title 20, Education.

CONSTRUCTION OF PROHIBITION AGAINST DISCRIMINATION UNDER FEDERAL GRANTS

Rights or protections of this section not affected by any provision of Pub. L. 98–457, see section 127 of Pub. L. 98–457, set out as a note under section 5101 of Title 42, The Public Health and Welfare.

Executive Documents

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this section by the Attorney General, see section 1–201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11914

Ex. Ord. No. 11914, Apr. 28, 1976, 41 F.R. 17871, which related to nondiscrimination in federally assisted programs, was revoked by Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

§ 794a. Remedies and attorney fees

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5(f) through (k)) (and the application of section 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of discrimination in compensation), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 93–112, title V, § 505, as added Pub. L. 95–602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2982; amended Pub. L. 111–2, § 5(c)(1), Jan. 29, 2009, 123 Stat. 6.)

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–2, § 5(c)(1)(A), inserted ''(and the application of section 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of discrimination in compensation)'' after ''(42 U.S.C. 2000e–5(f) through (k))''.

Subsec. (a)(2). Pub. L. 111–2, § 5(c)(1)(B), inserted ''(42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation)'' after ''1964''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–2 effective as if enacted May 28, 2007, and applicable to certain claims of discrimination in compensation pending on or after that date, see section 6 of Pub. L. 111–2, set out as a note under section 2000e–5 of Title 42, The Public Health and Welfare.

§ 794b. Removal of architectural, transportation, or communication barriers; technical and financial assistance; compensation of experts or consultants; authorization of appropriations

(a) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

(1) to persons operating community rehabilitation programs; and

(2) with the concurrence of the Access Board established by section 792 of this title, to any public or nonprofit agency, institution, or organization;