

and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the individual with a disability.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, TDD's or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with this section would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Chairman or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would never-

theless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the program or activity.

**§§ 2205.161-2205.169 [Reserved]**

**§ 2205.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs or activities conducted by the agency in violation of section 504. Paragraphs (c) through (j) of this section also apply to all complaints alleging a violation of the agency's responsibility to procure electronic and information technology under section 508, whether filed by members of the public or agency employees or applicants.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c)(1) Any person who believes that he or she has been subjected to discrimination prohibited by this part or that the agency's procurement of electronic and information technology has violated section 508, or an authorized representative of such person, may file a complaint with the Executive Director.

(2) The Executive Director shall be responsible for coordinating implementation of this section. Complaints shall be sent to Executive Director, Occupational Safety and Health Review Commission, One Lafayette Centre, 1120-20th Street NW., 9th Floor, Washington, DC 20036-3457. Complaints shall be filed with the Executive Director within 180 days of the alleged act of discrimination. A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the agency. The agency may extend this time period for good cause.

(d)(1) The agency shall accept a complete complaint that is filed in accordance with paragraph (c) of this section and over which it has jurisdiction. The Executive Director shall notify the

complainant and the respondent of receipt and acceptance of the complaint.

(2) If the agency receives a complaint that is not complete, the Executive Director shall notify the complainant, within 30 days of receipt of the incomplete complaint, that additional information is needed. If the complainant fails to complete the complaint within 30 days of receipt of this notice, the Executive Director shall dismiss the complaint without prejudice and shall so inform the complainant.

(3) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(e) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by individuals with disabilities.

(f) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(g) Appeals of the findings of fact and conclusions of law or remedies must be filed with the Chairman by the complainant within 90 days of receipt from the agency of the letter required by paragraph (f) of this section. The agency may extend this time for good cause. Appeals shall be sent to the Chairman, Occupational Safety and Health Review Commission, One Lafayette Centre, 1120–20th Street, NW., 9th Floor, Washington, DC 20036–3457. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the agency. It should be clearly marked “Appeal of Section 504 decision” or “Appeal of Section 508 decision” and should contain specific ob-

jections explaining why the complainant believes the initial decision was factually or legally wrong. Attached to the appeal letter should be a copy of the initial decision being appealed.

(h) Timely appeals shall be accepted and decided by the Chairman. The Chairman shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the Chairman determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(i) The time limits cited in paragraphs (f) and (h) of this section may be extended with the permission of the Assistant Attorney General.

(j) The agency may delegate its authority for conducting complaint investigations to other Federal agencies or may contract with non-Federal entities to conduct such investigations, except that the authority for making the final determination may not be delegated.

§§ 2205.171–2205.999 [Reserved]

**PART 2400—REGULATIONS  
IMPLEMENTING THE PRIVACY ACT**

Sec.

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AUTHORITY: 5 U.S.C. 552a(f); 5 U.S.C. 553.

SOURCE: 85 FR 65222, Oct. 15, 2020, unless otherwise noted.

**§ 2400.1 Purpose and scope.**

This part provides procedures to implement the Privacy Act of 1974, 5 U.S.C. 552a. It is applicable only to records that are maintained by the Occupational Safety and Health Review