

§ 80.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to which this part applies, except an application 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 program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property 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 real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. 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 responsible Department official shall specify the form of the foregoing assurances in the program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) 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 to assure 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. Where no transfer of property is involved but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant to any subsequent transfer of the 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 Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In the event 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 responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he 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.

(b) *Continuing Federal financial assistance.* Every application by a State or a State agency for continuing Federal financial assistance to which this regulation applies (including the Federal financial assistance listed in part 2 of appendix A to this part) 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 regulation, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Department official 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 this regulation.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) or (b) of this section with respect to any elementary or secondary school or school system 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 Department official determines is adequate to accomplish the purposes of the Act and this part, at the earliest practicable time, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible Department official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and the regulations in 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 future modification of such order.

(d) *Assurance from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for special training project, for student loans or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

(Secs. 601, 602, Civil Rights Act of 1964, 78 Stat. 252 (42 U.S.C. 2000d, 2000d-1); sec. 182, 80 Stat. 1209 (42 U.S.C. 2000d-5)) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14555, Oct. 19, 1967; 38 FR 17980, 17982, July 5, 1973; 70 FR 24318, May 9, 2005]