

TITLE V - MISCELLANEOUS

SEC. 500. EFFECT ON EXISTING LAW

[500](a) The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1973. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

[500](b) The authorizations of appropriations in the Vocational Rehabilitation Act are hereby extended at the level specified for the fiscal year 1972 for the fiscal year 1973.

SEC. 501. EMPLOYMENT OF HANDICAPPED INDIVIDUALS

[501](a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Equal Employment Opportunity Commission, (hereinafter in this section referred to as the 'Commission') the Administrator of Veterans' Affairs, and the Secretary of Labor, and Secretary of Education and the Secretary of Health and Human Services. The Secretary of Education and the Chairman of the Commission shall serve as co-chairpersons of the Committee. The resources of the President's Committees on Employment of People with Disabilities and on Mental Retardation shall be made fully available to the Committee. It shall be the purpose and function of the Committee

[501-a](1) to provide a focus for Federal and other employment of individuals with handicaps and to review, on a periodic basis, in cooperation with the Commission the adequacy of hiring, placement, and advancement practices with respect to individuals with handicaps by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and

[501-a](2) to consult with the Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

[501](b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Commission) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Equal Employment Opportunity Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with handicaps in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of employees with handicaps are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient

assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with handicaps.

[501](c) The Equal Employment Opportunity Commission after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for individuals with handicaps including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

[501](d) The Equal Employment Opportunity Commission after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of individuals with handicaps by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Equal Employment Opportunity Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the activities of the Equal Employment Opportunity Commission under subsection (b) and (c) of this section.

[501](e) An individual who, as a part of an individualized written rehabilitation program under a state plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leaves, unemployment compensation, and Federal employee benefits.

[501](f)(1) The Secretary of Labor and the Secretary of Education are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

[501-f](2) In selecting personnel to fill all positions on the President's Committee on Employment of People with Disabilities, special consideration shall be given to qualified individuals with handicaps.

SEC. 502. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[502](a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed as follows:

[502-a-1](A) Twelve members shall be appointed by the President from among members of the general public of whom six shall be individuals with handicaps

[502-a-1](B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

- (i) Department of Health and Human Services
- (ii) Department of Transportation
- (iii) Department of Housing and Urban Development
- (iv) Department of Labor
- (v) Department of the Interior
- (vi) Department of Defense
- (vii) Department of Justice
- (viii) General Services Administration
- (ix) Veterans' Administration

- (x) United States Postal Service
- (xi) Department of Education.

The Chairperson and vice-chairperson of the Board shall be elected by majority vote of the members of the Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.

[502-a](2)(A) The term of office of each appointed member of the Board shall be three years. Each year, the terms of office of four appointed members of the board shall expire.

[502-a](2)(B) A member whose term has expired may continue to serve until a successor has been appointed.

[502-a](2)(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

[502-a](3) If an appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date the member becomes such an employee.

[502-a](4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

[502-a](5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

[502-a-5](B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, other necessary expenses incurred by them in carrying out their duties under this section.

[502-a](6)(A) The Board shall establish such bylaws and other rules as may be appropriate to enable the Board to carry out its functions under this Act.

[502-a-6](B) The bylaws shall include quorum requirements. The quorum requirements shall provide that

[502-a-6-B](i) a proxy may not be counted for purposes of establishing a quorum, and

[502-a-6-B](ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).

[502](b) It shall be the function of the Board to:

[502-b](1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;

- [502-b](2) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with handicaps, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;
- [502-b](3) determine what measures are being taken by Federal, state, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection;
- [502-b](4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;
- [502-b](5) make to the President and to Congress reports which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection;
- [502-b](6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection;
- [502-b](7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and
- [502-b](8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical handicaps.
- [502](c) The Board shall also
- [502-c](1)(A) determine how and to what extent transportation barriers impede the mobility of individuals with handicaps and aged individuals with handicaps and consider ways in which travel expenses in connection with transportation to and from work for individuals with handicaps can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and
- [502-c-1](B) consider the housing needs of individuals with handicaps;
- [502-c](2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems,
- [502-c-2](A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and
- [502-c-2](B) to make housing available and accessible to individuals with handicaps or to meet sheltered housing needs; and
- [502-c](3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for individuals with handicaps including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.
- [502](d)(1) In carrying out its functions under this Act, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). Except as provided in paragraph (3) of subsection (e), the provisions of subchapter II of chapter 5, and chapter

7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

[502-d](2) The Executive Director is authorized, at the direction of the Board--

[502-d-2](A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection; and

[502-d-2](B) to intervene, appear, and participate, or to appear as amicus curiae in any court of the United States or in any court of a State in civil actions that relate to this section or to the Architectural Barriers Act of 1968.

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Executive Director may appear for and represent the Board in any civil litigation brought under this section.

[502-d](3) The Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Education shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to overcoming architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.

[502](e)(1) There shall be appointed by the Board an Executive Director and such other professional and clerical personnel as are necessary to carry out its functions under this Act. The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

[502-e](2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance and in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

[502-e](3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.

[502](f) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative,

or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this subsection shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate for a person employed as a GS-18 under section 5332 of title 5, United States Code, including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

[502](g) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (5) and (6) of subsection (b) of this section. The Board shall prepare two final reports of its activities under section (c). One such report shall be on its activities in the field of transportation barriers facing individuals with handicaps and the other such report shall be on its activities in the field of the housing needs of individuals with handicaps. The Board shall, not later than September 30, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Board shall also prepare for such submissions an interim report of its activities in each such field within 18 months after the date of enactment of this Act. The Board shall prepare and submit two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers facing individuals with handicaps and the other report on its activities in the field of the housing needs of individuals with handicaps. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988.

[502](h)(1) Within one year following the enactment of this subsection, the Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide individuals with handicaps with full access to all programs and activities receiving Federal assistance.

(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessment required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

[502-h-1](i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. but in no event shall the amount appropriated for any one fiscal year exceed \$3,000,000.

SEC. 503. EMPLOYMENT UNDER FEDERAL CONTRACTS

[503](a) Any contract in excess of \$2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such

contract, the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with handicaps as defined in section 7(8). The provisions of this section shall apply to any subcontract in excess of \$2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

[503](b) If any individual with handicaps 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 handicaps, 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.

[503](c) 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.

SEC. 504. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS

[504](a) No otherwise qualified individuals with handicaps in the United States, as defined in section 7(8) of this title, shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance 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.

[504](b) For the purposes of this section, the term "program or activity" means all of the operations of--

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

[504](b)(1)(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;

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

[504](b)(2)(B) a local educational agency (as defined in section 1471(12) of title 20) system of vocational education, or other school system;

[504](b)(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship--

[504](b)(3)(A)(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

[504](b)(3)(A)(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

[504](b)(3)(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

[504](b)(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any party of which is extended Federal financial assistance.

[504](c) Small providers are not required by subsection (a) of this section 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.

SEC. 505. REMEDIES AND ATTORNEYS' FEES

[505](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)), shall be available, with respect to any complaint under section 501 of this Act, 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.

[505-a](2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 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 504 of this Act.

[505](b) In any action or proceeding to enforce or charge a violation of a provision of this title, 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.

SEC. 506. SECRETARIAL RESPONSIBILITIES

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

[506-1](1) to persons operating rehabilitation facilities; and

[506-1](2) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1).

[506](b) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[506](c) The Secretary, with the concurrence of the Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of

removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(2) of this title.

[506](d) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 507. INTERAGENCY COORDINATING COUNCIL

There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the "Council") composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Chairperson of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, and the Chairperson of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.

SEC. 508. ELECTRONIC EQUIPMENT ACCESSIBILITY

[508](a)(1) The Secretary, through the Director of National Institute on Disability and Rehabilitation Research and the Administrator of General Services, in consultation with the electronics industry, shall develop and establish guidelines for electronic equipment accessibility designed to insure that individuals with handicaps may use electronic office equipment with or without special peripherals.

[508-a](2) The guidelines established pursuant to paragraph (1) shall be applicable with respect to electronic equipment, whether purchased or leased.

[508-a](3) The initial guidelines shall be established not later than October 1, 1987, and shall be periodically revised by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in Consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees; and as technologies advance or change.

[508](b) Beginning after September 30, 1988, the Administrator of General Services shall adopt guidelines for electronic equipment accessibility established under subsection (a) for Federal procurement of electronic equipment. Each agency shall comply with the guidelines adopted under this subsection.

[508](c) For the purpose of this section, the term "special peripherals" means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to an individual with handicaps.