

these regulations. In general, these assurances, which are legal agreements between the government and recipients of federal financial assistance, are designed to ensure that recipients of federal financial assistance comply with nondiscrimination laws and do not discriminate in their programs or activities. However, some agencies had assurance provisions that were confusing in light of the CRRA because they incorrectly stated that, in some circumstances, certain parts of a program will not be covered by civil rights laws. For example, DOJ's assurance provision, which is very similar to the corresponding assurance requirements in other agencies' Title VI regulations, provided in part: "[t]he assurance * * * shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the 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. * * *" 28 CFR 42.105(c)(2). In order to avoid any further confusion, the regulatory changes delete the above provision and similar provisions in the regulations of other agencies that incorrectly suggest that some parts of a program will not be covered under certain circumstances. These changes ensure that agency regulations reflect the broad scope of coverage of a program or activity that was contemplated by the CRRA.

Several federal agencies' Title VI regulations provided illustrative examples or applications that referred to the waiver language contained in the assurance provision. Because the waiver language in relevant assurance provisions has been deleted, similar language and references in illustrative applications and examples also have been deleted. These deletions do not affect the reach of the statutes or regulations.

Other References to "Program" and "Program or Activity"

In addition, we deleted references to "program" and "program or activity" in the regulations that did not conform to the broadened CRRA definition of "program" and "program or activity." For example, in some instances, we substituted "Federal financial assistance" for "program" or "program or activity" where the phrase referred to federal financial assistance. In other instances, we substituted the phrase "aid, benefit, or service" if that was the intended meaning. We made revisions when the terms "program" and

"program or activity" were used too narrowly, *i.e.*, when they were used to indicate only a specific portion of a program that directly receives assistance. The nomenclature tables, which are charts designed to provide an easy method for viewing the words to be removed or replaced, show these conforming changes for each agency. In some instances, we changed the phrase "program and activity" to "program or activity" to conform the regulations to the term as defined in the CRRA. We did not modify the term "activity" when it appears separately from the phrase "program or activity" and is used in a manner unrelated to the CRRA phrase "program or activity."

In promulgating its final regulations, the Department of Education ("ED") used the plural terms "programs" and "programs or activities" to refer generally to multiple programs or activities operated by multiple recipients. In all other instances, however, ED used the singular terms "program" or "program or activity." ED explained that it had decided to use the singular terms in all such instances to reflect the fact that virtually all of ED's recipients, such as institutions of higher education, have only one "program" or "program or activity" encompassing all of the recipient's operations. Noting that the singular also can be interpreted to encompass the plural, ED further explained that the use of the singular was appropriate even for those cases in which ED might fund a recipient that operates more than one program or activity (such as when an individual recipient corporation has multiple plants each of which is a separate program or activity). Given the greater range of recipient entities funded by the multiple agencies participating in this joint final rule and the likelihood that most of these agencies fund recipients that may operate more than one program or activity, the participating agencies have not endeavored to make any changes to these regulations solely related to the use of the singular or plural forms of these terms. As such, the regulations of these agencies may differ from ED's regulations in terms of the use of the singular or plural form of "program" or "program or activity," but such differences should not be interpreted to imply any legal difference in the intended scope of coverage.

Although we have generally deleted all references to "program" and "program or activity" where such references do not conform to the CRRA, we have not done so when the regulation is merely copying statutory language. For example, the regulations for some agencies contain a compliance

provision that requires the agency to report any order for fund termination to the congressional committee with jurisdiction over the "program" involved. In this case, the term "program" clearly refers to Federal financial assistance, but we did not replace the word because the copied statutory language itself uses the term "program."

In other instances in which the term "program" is used in a manner inconsistent with the CRRA, we capitalized the word in order to distinguish it from the term defined by the CRRA. For example, we capitalized certain terms of art (*e.g.*, "Historic Preservation Program," "Individualized Education Program") or names of types of federal financial assistance (*e.g.*, "School Lunch Program") to avoid confusion.

Other Conforming Changes

Other changes include modifications to some agencies' definition of "recipient." A few agencies defined this term to include an entity that "benefits from" Federal financial assistance. Likewise, many agencies' section 504 and Age Discrimination Act regulations used the phrase "receives or benefits from Federal financial assistance." The phrase "or benefits from" in this context has been deleted as it is superfluous in light of the CRRA.

Because the changes are limited to those that are related to the CRRA definition of "program" and "program or activity," we did not make additional technical corrections unless the provision was already subject to a CRRA-related change. Likewise, we did not make other technical corrections to outdated agency or office names, with one notable exception. Since the regulations for the Department of Energy require that age discrimination complaints be filed with a specific office, we have updated the regulations to reflect the new name of that office, thereby reducing confusion for individual complainants.

Although we are not amending the content of the Agencies' appendices, the headings and introductory text describing the content are amended to conform with the CRRA. Additional conforming changes to the body of the various agency appendices will be published in the **Federal Register** in a separate document at a later date.

Coordination With the Department of Education

The Department of Education ("ED")—one of two agencies that were implicated in the *Cureton* decision and that have decided to promulgate