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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 26 1996

MEMORANDUM FOR STATE METHODS OF ADMINISTRATION (MOA)
COORDINATORS AND OTHER STATE VOCATIONAL LEADERS FOR CIVIL RIGHTS

SUBJECT: Revised Procedures for Preparing the Methods of Administration (MOA)
Described in the Vocational Education Guidelines

The Office for Civil Rights (OCR) is pleased to provide the attached revisions to the Memorandum of Procedures (MOP) for state agencies to use in reporting civil rights compliance in vocational educational programs under the Methods of Administration (MOA) between OCR and state governments. The Department's Office for Vocational and Adult Education (OVAE) has worked with OCR in the preparation of the revisions, reflecting OCR's and OVAE's longstanding concern for special populations in vocational education across the nation.

The intent of the revisions is to redesign the role for both OCR and the states. We seek to encourage creativity on the part of the states and to foster a more effective partnership with them. In fact, from the beginning, the revisions have been a cooperative process, in which input from state agencies has been sought and considered. We feel confident that you will be pleased with the result.

Although the document is being sent directly to you, as the state official charged with your state's reporting under the MOA, we ask that you share it with other leaders in your agency and state who may have an interest in it, including the chief state school officer, if appropriate.

If we may be of further assistance, please do not hesitate to contact us.

Norma V. Cantú

Assistant Secretary
for Civil Rights

Attachment

As stated



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

September 1996

MEMORANDUM FOR CHIEF STATE SCHOOL OFFICERS
EXECUTIVE OFFICERS OF STATE BOARDS
OF VOCATIONAL EDUCATION
STATE DIRECTORS OF VOCATIONAL EDUCATION
CHAIRPERSONS, STATE ADVISORY COUNCILS
FOR VOCATIONAL EDUCATION

SUBJECT: Revisions to the Memorandum of Procedures for Preparing the Methods of Administration Described in the Vocational Education Guidelines

I. Introduction

The Memorandum of Procedures (MOP) was issued by the former Department of Health, Education, and Welfare in July 1979. The MOP sets forth the procedures and minimum requirements for state agencies regarding the development of civil rights compliance programs covering subrecipients that provide vocational education and receive Federal financial assistance. Pursuant to the MOP, each state agency was required to prepare a Methods of Administration (MOA) plan describing how the agency would carry out its civil rights compliance obligations under the Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Education Programs (Guidelines), 34 C.F.R. Part 100, Appendix B.

After fifteen years of implementing the original MOP, and in conformance with the National Performance Review, a comprehensive evaluation of the basic requirements set forth in the MOP and the overall effectiveness of the MOA program was needed. In evaluating the program, OCR has reviewed each requirement and identified those that have been effective in promoting civil rights compliance in vocational education programs, and those that have not. As a result of this evaluation, the Office for Civil Rights has redesigned the program.

What are the primary objectives of the redesigned program?

To provide greater flexibility to state agencies in developing procedures and establishing criteria for targeting subrecipient on-site reviews that address the unique characteristics and/or equity-related priorities of the state agency and the agency's subrecipient universe;



- to increase staff resources available to conduct comprehensive on-site reviews, monitor implementation of voluntary compliance plans (VCP's), and provide technical assistance to subrecipients by reducing the staff time and paper work currently expended on conducting agency-level reviews and reporting these activities to OCR; and
- to increase the impact of state agency compliance programs by focusing on priority issues and disseminating the findings and remedies resulting from on-site reviews more widely.

By redesigning the MOA process, OCR will create a Federal/state partnership that will provide the opportunity for each state to be more creative, innovative, and effective in implementing its own unique MOA program.

What is not being changed?

The Guidelines are still applicable. All of the substantive sections in the original MOP are still in effect unless specifically superseded by this document. The relevant provisions of existing state agency MOA agreements approved by OCR are still valid, unless modified by this document.

What is being redesigned?

The redesigned MOP effectively redefines the roles for both OCR and the states to foster a more effective partnership. Most of the reporting requirements contained in the MOP have been eliminated. In addition, the frequency of compliance reports to OCR has been changed. The requirement to conduct agency-level reviews has been eliminated and the minimum percentage and numbers of annual on-site reviews have been reduced.

II. Requirements Modified or Eliminated

A. Agency-level Reviews

This section supersedes the provisions in Section 4-B of the MOP. The requirement to conduct an annual agency-level review or desk audit of 20% of the subrecipient universe has been eliminated. Although this procedure is no longer required, each state agency must continue to utilize criteria for selecting on-site reviews that, to the extent possible, target those subrecipients that have the greatest potential for noncompliance.

B. Identification of Subrecipient Violations Through On-site Reviews

This section supersedes the relevant provisions in Section 4-C of the MOP regarding the minimum number of on-site reviews and selection of subrecipients for review.

This section also provides additional guidance on other aspects of the on-site review process.

1. Number of Reviews Per Year

The minimum number of on-site reviews has been reduced. State agencies will be required to conduct on-site reviews, on an annual basis, of at least 2.5% of the universe of subrecipients and State Operated Programs (SOP's), but no fewer than two and no more than 25 on-site reviews shall be required. Since the minimum number of on-site reviews that are required has been reduced, state agencies will be expected to conduct more comprehensive reviews of larger recipients and SOP's.

2. Targeting On-Site Reviews

State agencies must continue to use selection criteria that, to the extent possible, target those subrecipients/SOP's for on-site reviews that have the greatest potential for civil rights noncompliance. State agencies may, subject to review by OCR, continue to utilize their current agency-level review process as a mechanism for targeting on-site reviews, provided they are effective in this regard. However, state agencies are not required to regularly report this activity to OCR.

In developing new targeting procedures, state agencies must continue to analyze data to identify programs that disproportionately enroll students in protected classes. State agencies may also incorporate relevant program performance standards in Federal vocational education laws and regulations as part of their targeting criteria. Additionally, in targeting on-site reviews, state agencies may use selection criteria that take into account the size or complexity of the reviews. Such factors may include, but are not limited to, the number and distribution of sites, types of student populations, and the mix of geographic and demographic characteristics. The date when the state conducted its last on-site review of the subrecipients and/or SOP's may also be considered.

Agencies should periodically review and revise their targeting procedures to ensure that they are effectively targeting those subrecipients/SOP's that have the greatest potential for noncompliance.

3. Submission of State Agency On-Site Review Targeting Procedures

State agencies will be required to submit a detailed description of their procedures for targeting on-site reviews to OCR within 60 days from the start of the reporting cycle. The agencies should notify OCR of any changes made to the procedures during the reporting cycle.

4. Letters of Findings (LOF's)

Letters of findings issued to subrecipients after on-site reviews have been conducted must continue to meet the standards set forth in Section 4-C-4 of the MOP. Additionally, each LOF must specifically set forth the state agency's determination as to whether the subrecipient or SOP is in compliance with the relevant civil rights statutes and regulations. Any violations requiring corrective action must be clearly identified and distinguished from "areas/issues of concern." LOF's may identify "areas of concerns" if the state determines that although an issue does not currently rise to the level of a violation, a situation may develop into a violation at a future time.

5. Voluntary Compliance Plans (VCP's)

VCP's negotiated pursuant to on-site reviews must meet the standards set forth in Section 4-E of the MOP. State agencies must allow up to 90 days for the subrecipients/SOP's to submit a VCP. VCP's must be dated and signed by an official representative of the subrecipient/SOP.

C. Reporting to OCR

This section supersedes the provisions in Section 5 of the MOP.

1. Frequency of Reports to OCR

In lieu of submitting an annual report to OCR each year, beginning July 1, 1997, each state agency will be required to submit a compliance report on a biennial basis (i.e., every other year). State agencies selected to report on July 1, 1997, will submit a compliance report for their 1996-97 activities only, with their next two-year report due on July 1, 1999. Those agencies not reporting in 1997, will submit a two-year compliance report on July 1, 1998. All state agencies will be notified of their reporting schedules within 30 days of the final issuance of this document.

2. Content of Biennial Civil Rights Compliance Reports

This section supersedes the relevant provisions in Section 5-A in the MOP. State agencies are no longer required to report to OCR on the following MOA activities:

- Reviews of SOP's and state-operated institutions;
- agency-level reviews; and
- technical assistance.

Although these reporting requirements are dropped, state agencies' substantive responsibilities, as set forth in the relevant sections of the MOP, remain unchanged. With the exception of the agency-level review requirement, which has been eliminated,

each state agency will be accountable for its performance of these activities when OCR conducts a review of the agency's MOA program.

On an biennial basis, states will submit a simplified compliance report to OCR that contains the following information:

- The staff resources (in Full Time Equivalent (FTE) or person years) allocated by the state agency to the MOA compliance program during each year of the reporting period;
- the results of the review of new state policies and procedures set forth in the four areas cited in Section II (A) of the Guidelines, along with a description of the actions taken, if any, to correct any new policies and procedures found to be discriminatory;
- a list of the subrecipients and SOP's for which the states conducted on-site reviews;
- a copy of each LOF issued pursuant to the reviews;
- a copy of each VCP that was received and accepted;
- a list of all subrecipients and SOP's that the state is monitoring pursuant to on-site reviews conducted in the previous year, along with a summary of the status of each outstanding or fully-implemented VCP;
- a list of the subrecipient and SOP universe in alphabetical order and the year in which the last on-site was conducted. Subrecipients or SOP's that are new from the previous report should be noted; and
- a list of the subrecipient and SOP universe ranked by the state's selection criteria used for on-site selection.

III. State Agency Evaluations, Feedback, and Communications

OCR's goal is to provide quick and responsive communication with the states on all matters relating to the vocational education MOA program.

Referrals of Subrecipients to OCR

- OCR will acknowledge receipt of states' referrals within 30 days of receipt;
- Where appropriate, OCR will contact the subrecipient and encourage compliance/cooperation with the state MOA process;

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- If voluntary compliance is not possible, OCR will initiate a formal complaint against the subrecipient 180 days after receipt.

IV. Future Evaluations of the MOA Requirements

The MOA program will be reviewed at regular intervals to determine whether the procedures in force are working effectively and efficiently. Input from interested parties including the states, focus groups, and beneficiaries will be obtained to ensure a balanced perspective. Additional modifications will be made as necessary.