

disabled by alcoholism, or an individual with an infectious or communicable disease, as further defined in § 268.303(g) of this part.

(p) *Investigator* means an investigative officer or complaint examiner selected or appointed pursuant to §§ 268.103(c)(11) and 268.305(e)(3) of this part.

(q) *Is regarded as having an impairment* means:

(1) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Board as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in § 268.102(s) of this part, but is treated by the Board as having such an impairment.

(r) *Major life activities* means functions, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(s) *Physical or mental impairment* means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(t) *Qualified individual with a disability* means:

(1) With respect to a Board program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with a disability who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the Board can determine on the basis

of a written record would result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; or

(3) With respect to employment, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of the individual or others, and who meets the experience or education requirements (which may include passing a written test) of the position in question.

(u) *Title VII* means Title VII of the Civil Rights Act (42 U.S.C. 2000e *et seq.*).

#### **§ 268.103 Equal employment designations.**

(a) *Administrative Governor*. The Administrative Governor, a member of the Board of Governors designated by the Chairman of the Board, is charged with overseeing the internal affairs of the Board and is empowered to make decisions and determinations on behalf of the Board when authority to do so is delegated to him or her.

(1) The Administrative Governor is hereby delegated the authority to make determinations adjudicating complaints of discrimination pursuant to §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, unless a member of the Board of Governors has requested that the Board of Governors make the decision on the complaint pursuant to §§ 268.209(a) or 268.709(k) of this part, settlements pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part. The Administrative Governor is further delegated the authority to order such corrective measures, including such remedial actions as may be required by subpart E of this part, as he or she may consider necessary, including such disciplinary action as is warranted by the circumstances when an employee has been found to have engaged in a discriminatory practice.

(2) The Administrative Governor may delegate to any officer or employee of the Board any of his or her duties or functions under this part.

(3) The Administrative Governor may refer to the Board of Governors for determination or decision any complaint of discrimination that the Administrative Governor would otherwise decide pursuant to §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, settlements pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part, and may make changes in programs and procedures designed to eliminate discriminatory practices or to improve the Board's programs under this part, and may make any recommendation for remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibilities, or employees who have been found to have engaged in discriminatory practices, or with regard to any other matter which the Administrative Governor believes merits the attention of the Board of Governors.

(b) *Staff Director for Management.* The Staff Director for Management shall perform the following functions under this part:

(1) When so authorized by the Administrative Governor, the Staff Director for Management shall make any determinations on complaints of discrimination that would otherwise be made by the Administrative Governor under §§ 268.206, 268.209, 268.305(i) and 268.709 of this part, settlement pursuant to § 268.305(f) of this part and determinations regarding attorney fees pursuant to § 268.501(e) of this part. The Staff Director for Management shall order such corrective measures, including such remedial actions as may be required by subpart E of this part as he or she may consider necessary, and including the recommendation for such disciplinary action as is warranted by the circumstances when an employee is found to have engaged in a discriminatory practice.

(2) The Staff Director for Management shall review the record on any complaint under this part before a determination is made by the Board of Governors or the Administrative Governor on the complaint and make such recommendations as to the determination as he or she considers desirable, including any recommendation for

such disciplinary action as is warranted by the circumstances when an employee is found to have engaged in a discriminatory practice.

(3) When authorized by the Administrative Governor, the Staff Director for Management may make changes in programs and procedures designed to eliminate discriminatory practices and improve the Board's program for equal employment opportunity.

(c) *EEO Programs Director.* The EEO Programs Director is appointed by the Board of Governors and shall perform the following functions under this part:

(1) Administer the Board's equal employment opportunity program and advise the Board, the Administrative Governor and the Staff Director for Management with respect to the preparation of equal employment opportunity plans, goals, objectives, procedures, regulations, reports, and other matters pertaining to the Board's program established under § 268.202 of this part;

(2) Advise and consult with the Chairman of the Board of Governors, when necessary, on any matter pertaining to the Board's equal employment opportunity program and its administration;

(3) Evaluate from time to time the sufficiency of the Board's total program for equal employment opportunity and report to the Board of Governors, the Administrative Governor and the Staff Director for Management, with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial, supervisory or other employees who have failed in their responsibilities;

(4) Recommend to the Staff Director for Management and the Administrative Governor changes in programs and procedures designed to eliminate discriminatory practices and improve the Board's program for equal employment opportunity;

(5) Appoint a Federal Women's Program Manager, a Hispanic Program Coordinator, a Disabled Persons Program Coordinator, and such EEO Counselor(s) as may be necessary to assist the EEO Programs Director in carrying out the functions described in this part. The EEO Programs Director shall

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ensure such managers, coordinators and counselor(s) shall receive full and proper training to implement their duties and responsibilities under this part;

(6) Publicize to Board employees and applicants for employment and post at all times on official Board bulletin boards:

(i) The names, business telephone numbers, business addresses and the equal employment opportunity responsibilities of the Staff Director for Management, the EEO Programs Director, the Federal Women's Program Manager, the Hispanic Program Coordinator, and the Disabled Persons Program Coordinator;

(ii) The names, business telephone numbers, business addresses of EEO Counselors, the segments of the Board for which they are responsible, the availability of EEO Counselors to counsel an employee or applicant for employment who believes that he or she has been discriminated against because of race, color, religion, sex, national origin, age, or physical or mental disability, and the requirement that an employee or applicant for employment must consult an EEO Counselor as provided by §§ 268.204 and 268.305(a) of this part; and

(iii) The time limits for contacting EEO Counselors;

(7) Provide to each employee annually (and the Division of Human Resources Management shall provide to each applicant for employment) a copy of a notice summarizing the general purposes of this part and specifying where copies of this part can be obtained. The EEO Programs Director shall ensure that copies of the summary of this part are posted in permanent locations in all Board facilities. The EEO Programs Director shall, on the request of any employee or applicant for employment provide that employee or applicant for employment with a copy of this part;

(8) Provide for counseling of aggrieved individuals and for the receipt and processing of individual and class complaints of discrimination;

(9) Provide for the receipt and investigation of individual complaints of discrimination, subject to §§ 268.204 through 268.209 of this part, and provide

for the acceptance and processing and/or dismissal of class action complaints in accordance with § 268.305 of this part;

(10) Act as the Board's designee under § 268.305(c) of this part;

(11) Appoint any investigators as necessary to administer this part. The EEO Programs Director is authorized to request the loan or assignment of any investigators or administrative judges from any agency as necessary to administer this part. The EEO Programs Director shall obtain the concurrence of the Staff Director for Management for all appointments of and reimbursements to investigators, whether from the private sector or otherwise, which exceeds the EEO Programs Director's procurement authority;

(12) Assure that individual complaints are fairly and thoroughly investigated and that final decisions of the Board are issued in a timely manner in accordance with this part;

(13) Dismiss a complaint, or a portion of a complaint, pursuant to §§ 268.206 and 268.305(c) of this part;

(14) Suspend the complaint process when appropriate for any matter that is before the Merit Systems Protection Board for a determination; and

(15) Make recommendations based upon investigative reports, hearings and EEOC decisions which require the Board's final decision pursuant to § 268.209 of this part.

(d) *EEO Counselors.* The EEO Counselor(s) are appointed by the EEO Programs Director. EEO Counselors shall carry out the functions set forth in § 268.204 of this part.

(e) *Federal Women's Program Manager.* The EEO Programs Director shall appoint a Federal Women's Program Manager. The Federal Women's Program Manager shall perform the following functions: Advise the Board of Governors, the Administrative Governor, the Staff Director for Management and the EEO Programs Director on matters affecting, and administer the Board's program with respect to, the employment and advancement of women.

(f) *Hispanic Program Coordinator.* The EEO Programs Director shall appoint a Hispanic Program Coordinator. The Hispanic Program Coordinator shall

perform the following functions: Advise the Board of Governors, the Administrative Governor, the Staff Director for Management and the EEO Programs Director on matters affecting, and administer the Board's program with respect to, the employment and advancement of Hispanics.

(g) *Disabled Persons Program Coordinator.* The EEO Programs Director shall appoint a Disabled Persons Program Coordinator. The Disabled Persons Program Coordinator shall perform the following functions: Advise the Board of Governors, the Administrative Governor, the Staff Director for Management and the EEO Programs Director on matters affecting, and administer the Board's program with respect to, the employment and advancement of individuals with a disability.

### Subpart B—Board Program to Promote Equal Opportunity

#### § 268.201 General policy for equal opportunity.

(a) It is the policy of the Board to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or disability, and to promote the full realization of equal opportunity in employment through a continuing affirmative program.

(b) It is also the policy of the Board to insure equal opportunity for individuals with a disability in Board programs and activities consistent with section 504 of the Rehabilitation Act (29 U.S.C. 794) and to provide equal opportunity for all persons in accordance with the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1324a).

(c) No person shall be subject to retaliation for opposing any practice prohibited by this part, or for participating in any stage of administrative or judicial proceedings under this part. The practices prohibited by this part include those made unlawful by Title VII, the ADEA, the Equal Pay Act (29 U.S.C. 206(d)) and the Rehabilitation Act (29 U.S.C. 791).

#### § 268.202 Board program for equal employment opportunity.

(a) The Board, on the basis of a person's race, color, religion, sex or national origin, shall not:

(1) Fail or refuse to hire or discharge any person, or otherwise discriminate against any person with respect to his or her compensation, terms, conditions or privileges of employment; or

(2) Limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee.

(b)(1) The Board, on the basis of a person's age, shall not:

(i) Fail or refuse to hire or discharge any person or otherwise discriminate against any person with respect to his or her compensation, terms, conditions or privileges of employment;

(ii) Limit, segregate or classify its employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee or applicant for employment;

(iii) Reduce the wage rate of any employee in order to comply with paragraph (b) of this section;

(iv) Discriminate against any employee or applicant for employment because such employee or applicant for employment has opposed any practice forbidden under paragraph (b) of this section, or because such employee or applicant for employment has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or litigation involving paragraph (b) of this section or the ADEA; or

(v) Print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the Board indicating any preference, limitation, specification or discrimination.

(2) An aggrieved person filing a complaint of discrimination on the basis of age under this subpart B or § 268.305 of this part must have been at least 40 years of age at the time the alleged discrimination occurred.