

MAINE STATE LEGISLATURE

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Handicapped Persons Rights
Discrimination; Handicapped Persons
Education; Handicapped Persons

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

July 12, 1977

To: Department Heads
From: Joseph E. Brennan, Attorney General
Re: Protection of Rights of Handicapped Persons

The United States Department of Health, Education and Welfare has published regulations relating to discrimination against handicapped persons which may have significant impact on some State programs. The regulations initially will only apply to programs funded by the Federal Department of Health, Education and Welfare. However, HEW's regulation will form the basis for other regulations to be issued by other Federal agencies ultimately applying to all recipients of Federal funds. Accordingly, you should contemplate that these regulations or very similar ones will apply to all programs of Federal assistance in the near future. The regulations are published in the Federal Register for May 4, 1977, as 45 C.F.R. Part 84.

We were recently asked to review the effect of those regulations on State Government. I am providing a copy of that review to you. As indicated, the regulations raise a number of significant points which the Federal Government will require state agencies to address in dealing with handicapped persons.

-First, discrimination against handicapped persons is generally prohibited. Handicapped persons are defined as persons with physical or mental handicaps and the definition extends to persons who have problems with alcoholism and drug addiction.

-Second, employers who are recipients of Federal funds may no longer inquire in job interviews about whether a person is handicapped, or addicted to alcohol or drugs. Also, pre-employ-

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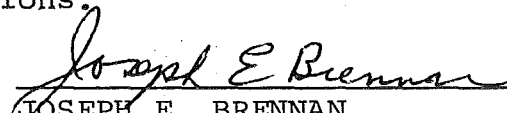
ment physical examinations of handicapped persons are prohibited. However, offers of employment may be conditioned on physical examination if that same requirement is imposed on all persons to whom job offers are made. Results of such examinations must be kept confidential, with minor exceptions.

-Employers may continue to impose certain job-related qualification requirements; however, "reasonable accommodation" must be made for handicapped employees and applicants.

-All new facilities which are constructed must be barrier free, that is, readily accessible to and usable by handicapped individuals. Further, existing facilities and programs must be made accessible to handicapped persons by August of 1977 except that where structural changes are required, such changes must be accomplished within 3 years. In this connection, it should be noted that it is not required that every room of every facility be made immediately accessible but only that the facility, and programs conducted within the facility, be made reasonably accessible to handicapped persons.

- Handicapped children must not be segregated in educational programs but must be educated with non-handicapped in regular classrooms to the maximum extent possible.

Attached herewith is a copy of a letter to Representative Judy Kany responding to her request for review of these regulations in greater detail. The letter provides a detailed examination of the impact of the regulations.


JOSEPH E. BRENNAN
Attorney General

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