

§ 12205. Attorney's fees

In any action or administrative proceeding commenced pursuant to this chapter, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

(Pub. L. 101-336, title V, §505, July 26, 1990, 104 Stat. 371.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

§ 12205a. Rule of construction regarding regulatory authority

The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this chapter includes the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008.

(Pub. L. 101-336, title V, §506, as added Pub. L. 110-325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The ADA Amendments Act of 2008, referred to in text, is Pub. L. 110-325, Sept. 25, 2008, 122 Stat. 3553, which enacted this section and section 12103 of this title, amended sections 12101, 12102, 12111 to 12114, 12201, and 12206 to 12213 of this title and section 705 and former section 706 of Title 29, Labor, and enacted provisions set out as notes under section 12101 of this title and section 705 of Title 29. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note under section 12101 of this title and Tables.

PRIOR PROVISIONS

A prior section 506 of Pub. L. 101-336 was renumbered section 507 and is classified to section 12206 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 2009, see section 8 of Pub. L. 110-325, set out as an Effective Date of 2008 Amendment note under section 705 of Title 29, Labor.

§ 12206. Technical assistance**(a) Plan for assistance****(1) In general**

Not later than 180 days after July 26, 1990, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communica-

tions Commission, shall develop a plan to assist entities covered under this chapter, and other Federal agencies, in understanding the responsibility of such entities and agencies under this chapter.

(2) Publication of plan

The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5 (commonly known as the Administrative Procedure Act).

(b) Agency and public assistance

The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) Implementation**(1) Rendering assistance**

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter may render technical assistance to individuals and institutions that have rights or duties under the respective subchapter or subchapters of this chapter for which such agency has responsibility.

(2) Implementation of subchapters**(A) Subchapter I**

The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for subchapter I.

(B) Subchapter II**(i) Part A**

The Attorney General shall implement such plan for assistance for part A of subchapter II.

(ii) Part B

The Secretary of Transportation shall implement such plan for assistance for part B of subchapter II.

(C) Subchapter III

The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for subchapter III, except for section 12184 of this title, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) Title IV

The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) Technical assistance manuals

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance

manuals to individuals or entities with rights or duties under this chapter no later than six months after applicable final regulations are published under subchapters I, II, and III and title IV.

(d) Grants and contracts

(1) In general

Each Federal agency that has responsibility under subsection (c)(2) for implementing this chapter may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this chapter. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or¹ grants described in this paragraph.

(2) Dissemination of information

Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this chapter and to provide information and technical assistance about techniques for effective compliance with this chapter.

(e) Failure to receive assistance

An employer, public accommodation, or other entity covered under this chapter shall not be excused from compliance with the requirements of this chapter because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

(Pub. L. 101-336, title V, § 507, formerly § 506, July 26, 1990, 104 Stat. 371; renumbered § 507, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (c)(1), (3), (d), and (e), was in the original “this Act”, meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Title IV, referred to in subsec. (c)(2)(D), (3), means title IV of Pub. L. 101-336, July 26, 1990, 104 Stat. 366, which enacted section 225 of Title 47, Telecommunications, and amended sections 152, 221, and 611 of Title 47.

PRIOR PROVISIONS

A prior section 507 of Pub. L. 101-336 was renumbered section 508 and is classified to section 12207 of this title.

§ 12207. Federal wilderness areas

(a) Study

The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individ-

uals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) Submission of report

Not later than 1 year after July 26, 1990, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) Specific wilderness access

(1) In general

Congress reaffirms that nothing in the Wilderness Act [16 U.S.C. 1131 et seq.] is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) “Wheelchair” defined

For purposes of paragraph (1), the term “wheelchair” means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

(Pub. L. 101-336, title V, § 508, formerly § 507, July 26, 1990, 104 Stat. 372; renumbered § 508, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsecs. (a) and (c)(1), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 508 of Pub. L. 101-336 was renumbered section 509 and is classified to section 12208 of this title.

§ 12208. Transvestites

For the purposes of this chapter, the term “disabled” or “disability” shall not apply to an individual solely because that individual is a transvestite.

(Pub. L. 101-336, title V, § 509, formerly § 508, July 26, 1990, 104 Stat. 373; renumbered § 509, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

PRIOR PROVISIONS

A prior section 509 of Pub. L. 101-336 was renumbered section 510 and is classified to section 12209 of this title.

§ 12209. Instrumentalities of Congress

The Government Accountability Office, the Government Publishing Office, and the Library of Congress shall be covered as follows:

(1) In general

The rights and protections under this chapter shall, subject to paragraph (2), apply with

¹ So in original. Probably should be “of”.