

- 35.11 Definitions of the terms "normal operation" and "statutory objective."
- 35.12 Exceptions to the rules against age discrimination: normal operation or statutory objective of any program or activity.
- 35.13 Exceptions to the rules against age discrimination: reasonable factors other than age.
- 35.14 Burden of proof.
- 35.15 Remedial action.
- 35.16 Special benefits for children and the elderly.
- 35.17 Age distinctions in DOL regulations.

Subpart C—Duties of DOL Recipients

- 35.20 General responsibilities.
- 35.21 Recipient responsibility to provide notice.
- 35.22 Information requirements.
- 35.23 Assurances required.
- 35.24 Designation of responsible employee.
- 35.25 Complaint procedures.
- 35.26 Recipient assessment of age distinctions.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

- 35.30 Compliance reviews.
- 35.31 Complaints.
- 35.32 Mediation.
- 35.33 Investigations.
- 35.34 Effect of agreements on enforcement effort.
- 35.35 Prohibition against intimidation or retaliation.
- 35.36 Enforcement.
- 35.37 Hearings, decisions, and post-termination proceedings.
- 35.38 Procedure for disbursement of funds to an alternate recipient.
- 35.39 Remedial action by recipient.
- 35.40 Exhaustion of administrative remedies.

Authority: 42 U.S.C. 6101 *et seq.*; 45 CFR part 90.

Subpart A—General

§ 35.1 What is the purpose of the Department of Labor (DOL) age discrimination regulations?

The purpose of this part is to set out the DOL rules for implementing the Age Discrimination Act of 1975, as amended. The Act prohibits discrimination on the basis of age by recipients of Federal financial assistance and in federally assisted programs or activities, but permits the use of certain age distinctions and factors other than age that meet the requirements of the Act and this part.

§ 35.2 To what programs or activities do these regulations apply?

(a) *Application.* This part applies to any program or activity that receives Federal financial assistance, directly or indirectly, from DOL.

(b) *Limitation of application.* This part does not apply to:

(1) An age distinction contained in that part of a Federal, State, or local

statute or ordinance adopted by an elected, general purpose legislative body that:

- (i) Provides persons with any benefits or assistance based on age; or
- (ii) Establishes criteria for participation in age-related terms; or
- (iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprentice training, except any program or activity receiving Federal financial assistance under the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*).

§ 35.3 What definitions apply to these regulations?

As used in this part:

Act means the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*).

Action means any act, activity, policy, rule, standard, or method of administration, or the use of any policy, rule, standard, or method of administration.

Age means how old a person is, or the number of years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words that necessarily imply a particular age or range of ages (e.g., "child," "adults," "older persons," but not "student").

Applicant for Federal financial assistance means the individual or entity submitting an application, request, or plan required to be approved by a DOL official or recipient as a condition to becoming a recipient or subrecipient.

Beneficiary means the person(s) intended by Congress to receive benefits or services from a recipient of Federal financial assistance from DOL.

CRC means the Civil Rights Center, Office of the Assistant Secretary for Administration and Management, United States Department of Labor.

Director means the Director of CRC.

Department means the United States Department of Labor.

DOL means the United States Department of Labor.

Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which DOL provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

- (i) Transfers or leases of property for less than fair market value or for reduced consideration; and
- (ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

Program or activity means all of the operations of any entity described in paragraphs (1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3) of this section.

Recipient means any State or its political subdivision, any instrumentalality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance from DOL is extended, directly or through another recipient, but excludes the ultimate beneficiary of the assistance. Recipient includes any subrecipient to which a recipient extends or passes on Federal