§ 90.4 How are the terms in these regulations defined?

As used in these regulations, the term:


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 elapsed years form 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 which necessarily imply a particular age or range of ages (for example, children, adult, older persons, but not student).

Agency means a Federal department or agency that is empowered to extend financial assistance.

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 the agency provides or otherwise makes available assistance in the form of:

(a) Funds;
(b) Services of Federal personnel; or
(c) Real and personal property or any interest in or use of property, including:
(1) Transfers or leases of property for less than fair market value or for reduced consideration; and
(2) 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—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or
(2) The entity of such State or local government that distributes Federal financial 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;
(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or
(2) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;
(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—
(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
§ 90.11 Purpose of this subpart.

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

§ 90.12 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in §§ 90.14, and 90.15 of these regulations.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 90.13 Definitions of normal operation and statutory objective.

For purposes of §§ 90.14, and 90.15, the terms normal operation and statutory objective shall have the following meaning:

(a) Normal operation means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) Statutory objective means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by § 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and