

## § 90.61

notice by registered mail to the Secretary, the Attorney General of the United States, the head of the granting agency, and the recipient;

(iv) That the notice shall state: the alleged violation of the Act; the relief requested; the court in which the action will be brought; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

### Subpart E—Future Review of Age Discrimination Regulations

#### § 90.61 Review of general regulations.

The Secretary shall review the effectiveness of these regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of these regulations, the Secretary shall publish a notice of opportunity for public comment on the effectiveness of the regulations. The Secretary will assess the comments and publish the results of the review and assessment in the FEDERAL REGISTER.

#### § 90.62 Review of agency regulations.

Each agency shall review the effectiveness of its regulations in securing compliance with the Act. As part of this review, 30 months after the effective date of its regulations, each agency shall publish a notice of opportunity for public comment on the effectiveness of the agency regulations. Each agency shall assess the comments and publish the results of the review in the FEDERAL REGISTER.

## PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HHS

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AUTHORITY: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (45 CFR part 90).

SOURCE: 47 FR 57858, Dec. 28, 1982, unless otherwise noted.

### Subpart A—General

#### § 91.1 What is the purpose of the Age Discrimination Act of 1975?

The Age Discrimination Act of 1975, as amended, is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal

financial assistance. The Act also permits federally assisted programs or activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

[47 FR 57858, Dec. 28, 1982, as amended at 70 FR 24322, May 9, 2005]

**§ 91.2 What is the purpose of HHS' age discrimination regulations?**

The purpose of these regulations is to set out HHS' policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR part 90.<sup>1</sup> The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs or activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

[47 FR 57858, Dec. 28, 1982, as amended at 70 FR 24322, May 9, 2005]

**§ 91.3 To what programs or activities do these regulations apply?**

(a) The Act and these regulations apply to each HHS recipient and to each program or activity operated by the recipient which receives Federal financial assistance provided by HHS.

(b) The Act and these regulations do 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 which:

(i) Provides any benefits or assistance to persons 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 apprenticeship training program, except for any program or activity receiving Federal financial assist-

ance for public service employment under the Comprehensive Employment and Training Act (CETA), (29 U.S.C. 801 et seq.)

[47 FR 57858, Dec. 28, 1982, as amended at 70 FR 24322, May 9, 2005]

**§ 91.4 Definition of terms used in these regulations.**

As used in these regulations, the term:

*Act* means the Age Discrimination Act of 1975, as amended, (Title III of Pub. L. 94-135).

*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 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; or

(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.

*HHS* means the United States Department of Health and Human Services.

*Program or activity* means all of the operations of—

<sup>1</sup>Published at 44 FR 33768, June 12, 1979.