

Counsel of TVA for an order requiring the person to appear before the Hearing Officer, to produce evidence or give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

PART 1309—NONDISCRIMINATION WITH RESPECT TO AGE

Sec.

- 1309.1 What are the defined terms in this part and what do they mean?
- 1309.2 What is the purpose of the Act?
- 1309.3 What is the purpose of this part?
- 1309.4 What programs or activities are covered by the Act and this part?
- 1309.5 What are the rules against age discrimination?
- 1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?
- 1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?
- 1309.8 Who has the burden of proving that an action is excepted?
- 1309.9 How does TVA provide financial assistance in conformity with the Act?
- 1309.10 What general responsibilities do recipients and TVA have to ensure compliance with the Act?
- 1309.11 What specific responsibilities do TVA and recipients have to ensure compliance with the Act?
- 1309.12 What are a recipient's responsibilities on compliance reviews and access to information?
- 1309.13 What are the prohibitions against intimidation or retaliation?
- 1309.14 How will complaints against recipients be processed?
- 1309.15 How will TVA enforce compliance with the Act and this part?
- 1309.16 What is the alternate funds disbursement procedure?
- 1309.17 What is the procedure for hearings and issuance of TVA decisions required by this part?
- 1309.18 Under what circumstances must recipients take remedial or affirmative action?
- 1309.19 When may a complainant file a civil action?

AUTHORITY: TVA Act of 1933, 48 Stat. 58 (1933), as amended, 16 U.S.C. 831-831dd (1976), and sec. 304 of the Age Discrimination Act of 1975, 89 Stat 729 (1975), as amended, 42 U.S.C. 6103 (1976).

SOURCE: 46 FR 30811, June 11, 1981, unless otherwise noted.

§ 1309.1 What are the defined terms in this part and what do they mean?

As used in this part the following terms have the stated meanings:

(a) *Act* means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (Title III of Pub. L. 94-135).

(b) *Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) *Age* means how old a person is, or the number of elapsed years from the date of a person's birth.

(d) *Age distinction* means any action using age or an age-related term.

(e) *Age-related term* means a term which necessarily implies a particular age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) *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 TVA provides or otherwise makes available to a recipient assistance in any of the following forms:

- (1) Funds;
- (2) Services of TVA personnel;
- (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 share of its fair market value provided by TVA is not returned to TVA.

(g) For purposes of §§ 1309.6 and 1309.7, *normal operation* means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(h) *Program or activity* means all of the operations of any entity described in paragraphs (h)(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

§ 1309.2

18 CFR Ch. XIII (4-1-11 Edition)

(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 20 U.S.C. 7801), 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 (h)(1), (2), or (3) of this section.

(i) For purposes of §§ 1309.6 and 1309.7, *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.

(j) *Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any State-created or recognized public or private agency, institution, organization, or other entity, or any person to which TVA extends financial assistance directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(k) *Secretary* means the Secretary of the Department of Health, Education, and Welfare, and its successors.

(1) *United States* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

(m) *TVA* means the Tennessee Valley Authority.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.2 What is the purpose of the Act?

The Act 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 this part.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.3 What is the purpose of this part?

The purpose of this part is to effectuate the Act in all programs or activities of recipients which receive financial assistance from TVA, and to inform the public and the recipients of financial assistance from TVA of the Act's requirements and how it will be enforced.

§ 1309.4 What programs or activities are covered by the Act and this part?

(a) The Act and this part apply to any program or activity receiving financial assistance from TVA.

(b) The Act and this part 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.