

## § 35.40

## 29 CFR Subtitle A (7–1–11 Edition)

necessary to overcome the effects of the discrimination. In addition, if a recipient funds or otherwise exercises control over another recipient that has discriminated, both recipients may be required to take remedial action.

### § 35.40 Exhaustion of administrative remedies.

(a) A complainant may file a civil action under the Act following the exhaustion of administrative remedies. Administrative remedies are exhausted if:

(1) One hundred eighty days have elapsed since the complainant filed the complaint with CRC, and CRC has made no finding with regard to the complaint; or

(2) CRC issues any finding in favor of the recipient.

(b) If CRC fails to make a finding within 180 days, or issues a finding in favor of the recipient, CRC will promptly:

(1) Notify the complainant;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant that:

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) A complainant who prevails in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint filed with the court;

(iii) Before commencing the action, the complainant must give 30 days notice by registered mail to the Secretary, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient;

(iv) The notice required by paragraph (b)(3)(iii) of this section must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event that the complainant prevails; and

(v) The complainant may not bring an action 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.

### APPENDIX A TO PART 35—AGE DISTINCTIONS IN STATUTES AFFECTING FINANCIAL ASSISTANCE ADMINISTERED BY DOL

Program	Statute	Section and age distinction	Regulation
<b>Employment and Training Administration</b>			
1. Senior Community Service Employment Program (SCSEP).	Title V, Older Americans Act Amendments of 2000, Pub. L. 106–501, 42 U.S.C.3056, 3056N.	Sec. 516(2) defines the term “eligible individuals” to mean “an individual who is 55 years old or older, who has a low income * * *, except that, * * *, any such individual who is 60 years of older shall have priority * * *.”	20 CFR part 641.
2. Job Corps .....	Title I, Subtitle C, Workforce Investment Act of 1998 (WIA), Pub. L. 105–220, 29 U.S.C. 2881–2901.	Sec. 144 of WIA (29 U.S.C. 2884) establishes eligibility criteria for the Job Corps program. These criteria require an enrollee to “be—(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and (B) either such maximum age limitation may be waived by the Secretary, * * * in the case of an individual with a disability.”	20 CFR 670.400.