

Department of Veterans Affairs

§ 18.515

Zone, the Trust Territories of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

(Authority: 42 U.S.C. 6101-6107)

[50 FR 34133, Aug. 23, 1985, as amended at 68 FR 51371, Aug. 26, 2003]

STANDARDS FOR DETERMINING AGE DISCRIMINATION

§ 18.511 Rules against age discrimination.

The rules in this section are limited by the exceptions contained in §§ 18.513 and 18.514 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.

(Authority: 42 U.S.C. 6101-6107)

§ 18.512 Definitions of “normal operation” and “statutory objective.”

For the purpose of these regulations, 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.

(Authority: 42 U.S.C. 6101-6107)

§ 18.513 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 § 18.511, 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

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

(Authority: 42 U.S.C. 6101-6107)

§ 18.514 Exceptions to the rules against age discrimination; reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 18.511 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(Authority: 42 U.S.C. 6101-6107)

§ 18.515 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 18.513 and