institutions, and other qualified organizations for programs in the United States to promote the economic and social development of developing countries. (Section 103—106, Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151a—2151d.)

PART 218—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec. 218.01 What is the purpose of the age discrimination regulations?
218.02 To what programs or activities do these regulations apply?
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APPENDIX A TO PART 218—LIST OF FEDERAL FINANCIAL ASSISTANCE

APPENDIX B TO PART 218—LIST OF TYPES OF FEDERAL FINANCIAL ASSISTANCE

APPENDIX C TO PART 218—LIST OF TYPES OF FEDERAL FINANCIAL ASSISTANCE


SOURCE: 45 FR 62960, Sept. 23, 1980, unless otherwise noted.

(3) **Subrecipient** means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

(4) **Program or activity** means all of the operations of any entity described in paragraphs (b)(4)(i) through (iv) of this section, any part of which is extended Federal financial assistance:

(i)(A) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) 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;

(ii)(A) A college, university, or other postsecondary institution, or a public system of higher education; or

(B) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(iii)(A) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(1) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(2) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) 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

(iv) Any other entity which is established by two or more of the entities described in paragraph (b)(4)(i), (ii), or (iii) of this section.

§ 218.31 Compliance reviews.

(a) The agency may conduct compliance reviews and pre-award reviews of recipients that will permit it to investigate and correct violations of these regulations. The agency may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or preaward review indicates a violation of this part, the agency will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the agency will arrange for enforcement as described in §143.36.

§ 218.32 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with an agency, alleging discrimination prohibited by these regulations based on an action occurring on or after July 1, 1978. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, the agency may extend this time limit.

(b) The agency will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which identifies the parties involved, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights under the complaint procedure, including the right to have a representative at all stages of the complaint process.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact the agency for information and assistance regarding the complaint resolution process.

(c) The agency will return to the complainant any complaint outside the jurisdiction of these regulations and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 218.33 Mediation.

(a) Referral of complaints for mediation. The agency will refer to the Federal Mediation and Conciliation Service all complaints that:

(1) fall within the jurisdiction of these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator, before the agency will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to the agency. The agency shall take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior
§ 218.36 Compliance procedure.
(a) An agency may enforce the Act and these regulations through:
(1) Termination of a recipient’s Federal financial assistance from the agency under the program or activity involved where the recipient has violated the Act and these regulations. The determination of the recipient’s violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation or prior to a hearing, will not involve termination of a recipient’s Federal financial assistance from the agency.
(2) Any other means authorized by law including but not limited to:
(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations by the Act and these regulations.
(ii) Use of any requirement of or referral to any Federal, state, or local government agency which will have the effect of correcting a violation of the Act or these regulations.
(b) The agency will limit any termination under paragraph (a)(1) of this section to the particular recipient and particular program or activity the agency finds in violation of these regulations. The agency will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from the agency.
(c) The agency will take no action under paragraph (a) of this section until:
(1) The agency head has advised the recipient of its failure to comply with these regulations and has determined that voluntary compliance cannot be obtained.

§ 218.35 Prohibition against intimidation or retaliation.
A recipient may not engage in acts of intimidation or retaliation against any person who:
(a) Attempts to assert a right protected by these regulations; or
(b) Cooperates in any mediation, investigation, hearing, or other part of the agency’s investigation, conciliation, and enforcement process.

§ 218.34 Investigation.
(a) Informal investigation. (1) The agency will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.
(2) As part of the initial investigation, the agency will use informal fact finding methods, including joint or separate discussions with the complainant and recipient to establish the facts, and, if possible, settle the complaint on terms that are mutually agreeable. The agency may seek the assistance of any involved State agency.
(3) The agency will put any agreement in writing and have it signed by the parties and an authorized official of the agency.
(4) The settlement shall not affect the operation of any other enforcement efforts of the agency, including compliance reviews and other individual complaints which may involve the recipient.
(5) The settlement is not a finding of discrimination against a recipient.
(b) Formal investigation. If the agency cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, the agency will attempt to obtain voluntary compliance. If the agency cannot obtain voluntary compliance, it will begin enforcement as described in § 218.36.
§ 218.37 Hearings, decisions, post-termination proceedings.

Certain procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to enforcement of this part. They are 22 CFR part 209.

§ 218.38 Remedial action by recipient.

Where the agency head finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the agency head may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the agency head may require both recipients to take remedial action.

§ 218.39 Alternate funds disbursement procedure.

(a) When an agency withholds funds from a recipient under these regulations, the agency head may disburse the withheld funds directly to an alternate recipient, any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The agency head will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

APPENDIX A TO PART 218—LIST OF FEDERAL FINANCIAL ASSISTANCE ADMINISTERED BY THE DEPARTMENT OF STATE SUBJECT TO AGE DISCRIMINATION REGULATIONS

Resettlement of Refugees in the United States Under the Migration and Refugee Assistant Act of 1962, as amended (22 U.S.C. 2601 et seq.).

Diplomat in Residence Program of the Foreign Service Institute Under Title VII of the Foreign Service Act of 1946, as amended (22 U.S.C. 1041 et seq.).


APPENDIX B TO PART 218—LIST OF TYPES OF FEDERAL FINANCIAL ASSISTANCE ADMINISTERED BY THE UNITED STATES INTERNATIONAL COMMUNICATION AGENCY SUBJECT TO AGE DISCRIMINATION REGULATIONS


APPENDIX C TO PART 218—LIST OF TYPES OF FEDERAL FINANCIAL ASSISTANCE ADMINISTERED BY AID SUBJECT TO AGE DISCRIMINATION REGULATIONS

1. Grants to research and educational institutions in the United States to strengthen...
their capacity to develop and carry out programs concerned with the economic and social development of developing countries. (Section 122(d), Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151(d)).

2. Grants to land grant and other qualified agricultural universities and colleges in the United States to develop their capabilities to assist developing countries in agricultural teaching, research and extension services. (Section 297, Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2220(b)).


PART 219—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT

§ 219.103 Definitions.

For purposes of this part, the term—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD’s), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant’s name and address and describes the agency’s alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 219.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 219.103 Definitions.

For purposes of this part, the term—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD’s), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant’s name and address and describes the agency’s alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.