

§ 42.734

28 CFR Ch. I (7–1–14 Edition)

§ 42.734 Alternative funding.

When assistance to a recipient is terminated or refused pursuant to § 42.733(b)(1)(i)(A), the Department may disburse the withheld funds directly to an alternate recipient serving the same area (i.e., a public or nonprofit private organization or agency or state or political subdivision of the state). Any such alternate recipient must demonstrate the ability to comply with the requirements of this subpart and to achieve the goals of the federal statute authorizing the assistance.

§ 42.735 Judicial review.

A final decision of the Department in an administrative proceeding pursuant to § 42.733(b)(1)(i)(A) is subject to judicial review as provided in section 306 of the Act, 42 U.S.C. 6105.

§ 42.736 Private lawsuits.

(a) Upon exhausting administrative remedies under the Act, a complainant may file a civil action to enjoin a violation of the Act. Administrative remedies are exhausted if—

(1) 180 days have elapsed since the complainant filed the complaint and the Department has made no finding with regard to the complaint; or

(2) The Department issues a finding, pursuant to § 42.731(g)(3), in favor of the recipient.

(b) Whenever administrative remedies are exhausted in accord with paragraph (a) of this section, the Department shall promptly inform the complainant that

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

(2) A complainant who prevails in such an action has the right to be awarded reasonable attorney's fees, if the complainant demands such an award in the complaint initiating the lawsuit;

(3) Before commencing the action, the complainant must give 30 days' notice by registered mail to the Secretary, the Attorney General, and the recipient;

(4) The notice must state the nature of the alleged violation, the relief requested, the court in which the action

will be brought, and whether attorney's fees will be demanded; and

(5) The complainant may not bring an action if the same alleged violation by the recipient is the subject of a pending action in any court of the United States.

§§ 42.737–42.799 [Reserved]

**APPENDIX A TO SUBPART I OF PART 42—
FEDERAL FINANCIAL ASSISTANCE
ADMINISTERED BY THE DEPARTMENT
OF JUSTICE TO WHICH THIS SUBPART
APPLIES**

NOTE: Failure to list a type of federal assistance in appendix A shall not mean, if the Age Discrimination Act is otherwise applicable, that a program or activity is not covered. For the text of appendix A to subpart I, see appendix A to subpart C of this part.

**APPENDIX B TO SUBPART I OF PART 42—
AGE DISTINCTIONS IN FEDERAL
STATUTES OR REGULATIONS AFFECTING
FINANCIAL ASSISTANCE ADMINIS-
TERED BY THE DEPARTMENT OF JUSTICE**

Section 90.31(f) of HHS' the general regulations (45 CFR part 90) requires each federal agency to publish an appendix to its final regulation containing a list of age distinctions in federal statutes and regulations affecting financial assistance administered by the agency. This appendix is the Department's list of federal statutes and Department regulations that contain age distinctions that:

(1) Provide benefits or assistance to persons based upon age; or

(2) Establish criteria for participation in age-related terms; or

(3) Describe intended beneficiaries or target groups in age-related terms.

The Department administers financial assistance under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601–5672). This statute reflects the basic distinction between criminal justice systems for adults and juvenile justice systems, and the entire statute is predicated upon making distinctions on the basis of age between juveniles and adults. Such age distinctions are set forth throughout this statute, including provisions establishing programs of financial assistance to juvenile justice systems and for purposes related to the prevention of juvenile delinquency. The Department's current regulations pertaining to formula grants under this statute are set forth at 28 CFR part 31 (CFDA No. 16.540). In order to implement the statutory purposes,