

§ 15c.3

Recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision (to include the District of Columbia and any United States territories and possessions), any public or private entity, institution, organization or any of their instrumentalities, or any individual (provided the individual is not the ultimate beneficiary) in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program or activity, including any successor, assignee, or transferee thereof.

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.

§ 15c.3 Discrimination prohibited.

(a) *General.* 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 discriminatory actions prohibited.* 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) *Specific forms of age discrimination.* The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) *Exceptions to the rules against age discrimination.* (1) A recipient is permitted to take an action, otherwise prohibited by this section, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statu-

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tory 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:

(i) Age is used as a measure or approximation of one or more other characteristics;

(ii) 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;

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

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

(2) A recipient is permitted to take an action otherwise prohibited by this section that 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.

(3) If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of this subpart.

(4) Any age distinctions contained in a rule or regulation issued by USDA shall be presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies, notwithstanding the provisions of this part.

§ 15c.4 Compliance, assurance, and notice requirements.

(a) USDA recipients have primary responsibility to ensure that their programs and activities are in compliance with the Age Act and this regulation and shall take steps to eliminate violations of the Age Act. Each recipient of Federal financial assistance from USDA shall sign a written assurance as

specified by the Department that it shall comply with the Age Act and this regulation. Each recipient initially receiving funds from USDA that makes the funds available to a sub-recipient must notify the sub-recipient of its obligations under the Age Act.

(b) Each recipient shall make necessary information about the Age Act and this regulation available to its beneficiaries in order to inform them about the protections against discrimination provided by the Act and this regulation.

§ 15c.5 Information requirements.

Each recipient shall maintain records in a form and containing information which the agency determines may be necessary to ascertain whether the recipient is complying with the Age Act and this regulation. Each recipient shall provide the agency any information necessary to determine whether the recipient is in compliance with the Age Act and this rule. Each recipient shall also permit reasonable access to the agency of the books, records, accounts, and other facilities and sources of information to the extent necessary to determine whether a recipient is in compliance with the Age Act and this regulation.

§ 15c.6 Compliance reviews.

(a) USDA may conduct compliance reviews or use other similar procedures to review the activities of recipients to determine whether they are complying with the Age Act and this regulation and to investigate and address violations of the Age Act. USDA may conduct these reviews, at any time, even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Age Act or this regulation has occurred.

(b) If a compliance review indicates a violation of the Age Act or this regulation, USDA shall attempt to achieve voluntary compliance with the Age Act. USDA shall monitor and evaluate a recipient's efforts to remedy a violation to ensure compliance consistent with applicable civil rights requirements until compliance has been achieved. If voluntary compliance cannot be achieved, USDA shall undertake

enforcement of the Age Act and this regulation.

§ 15c.7 Complaints.

(a) *Filing of complaints.* Any person who believes he/she or any specific class of individuals has been subject to discrimination by a recipient or believes that the recipient is otherwise in noncompliance with the provisions of the Age Act or this regulation may file a complaint with OASCR. The USDA Program Discrimination Complaint Form may be used to file a complaint.

(b) *Time and place of filing.* All age discrimination complaints alleging discrimination or noncompliance must be filed within 180 days of the last discriminatory act, to be timely. All complaints under this part shall be filed with the Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture, Washington, DC 20250.

(c) *Notice of rights and responsibilities.* USDA shall provide notice to the complainant and the recipient of their:

(1) Rights and obligations under complaint procedures including their right to have a representative at all stages of the complaint process;

(2) Rights to contact the agency for information and assistance regarding the complaint resolution process; and

(3) Obligation to participate actively in efforts toward speedy resolution of the complaint.

(d) *Mediation of complaints.* All complaints that allege discrimination based on age shall be mediated in an attempt to resolve disputes at the earliest stage possible. The complainant and the recipient are required to participate in the mediation process. If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing.

(e) *Investigation of complaints.* If the parties are unable to reach a resolution, USDA shall investigate the complaint. During the investigation of the complaint, OASCR or an agency delegated complaint processing authority