

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

§ 15c.8

shall 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 to the parties. USDA may seek the assistance of any involved State agency. If informal resolution efforts are unsuccessful, OASCR shall complete the investigation.

(f) *Final determination.* After a complete investigation, OASCR shall make a final determination as to the merits of the complaint. The complainant shall be notified of the final determination and provided notice of his or her right to file a civil action under the Age Act, 42 U.S.C. 6104(e), and 15c.10 of this part.

(g) *Voluntary compliance.* If OASCR or an agency delegated complaint processing authority finds that age discrimination has occurred, USDA shall attempt to obtain voluntary compliance. The recipient shall take any remedial action which USDA may require to overcome the effects of discrimination. If USDA cannot obtain voluntary compliance, it shall undertake enforcement of the Age Act and this regulation.

§ 15c.8 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 the Age Act; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the agency's investigation, conciliation, and enforcement process.

§ 15c.9 Enforcement.

(a) If USDA finds that a recipient has committed a violation of the Age Act and determines that voluntary compliance cannot be obtained, the Department shall enforce the requirements of the Age Act and this regulation through the termination of a recipient's Federal financial assistance under the program or activity involved where the recipient has violated the Age Act or this regulation. The determination of the recipient's violation may be made only after a recipient has

7 CFR Subtitle A (1-1-15 Edition)

had an opportunity for a hearing on the record before an administrative law judge.

(1) Any termination under this paragraph (a) shall be limited to the particular recipient and particular program or activity receiving Federal financial assistance or portion thereof found to be in violation of the Age Act or this regulation.

(2) No action under this paragraph (a) may be taken until:

(i) OASCR, or designee, has advised the recipient of its failure to comply with the Age Act and this regulation, and has determined that voluntary compliance cannot be obtained; and

(ii) Thirty days have elapsed after the head of the agency involved has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the program or activity involved.

(3) An agency may defer granting new Federal financial assistance to a recipient when termination proceedings under this paragraph (a) are initiated.

(b) When an agency withholds funds from a recipient under this regulation, the Agency Head may disburse the withheld funds directly to any public or non-profit private organization or agency, or State or political subdivision of the State. These alternate recipients must demonstrate the ability to comply with this regulation and to achieve the goals of the Federal statute authorizing the Federal financial assistance.

(c) USDA may seek to achieve compliance with the Age Act and this regulation by any other means authorized by law.

§ 15c.10 Exhaustion of administrative remedies.

(a) A complainant may file a civil action, in a United States district court for the district in which the recipient is found or transacts business, following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

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