

may require that any group seeking equal access inform the covered entity whether the group is officially affiliated with the Boy Scouts or is officially affiliated with any other Title 36 youth group. A covered entity's failure to request this information is not a defense to a covered entity's noncompliance with the Act or this part.

(Authority: 20 U.S.C. 7905)

§ 108.6 Equal access.

(a) *General.* Consistent with the requirements of paragraph (b) of this section, no covered entity shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting within that covered entity's designated open forum or limited public forum. No covered entity shall deny that access or opportunity or discriminate for reasons including the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts or of the Title 36 youth group.

(b) *Specific requirements.* (1) *Meetings.* Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting in the covered entity's designated open forum or limited public forum must be given equal access to school premises or facilities to conduct meetings.

(2) *Benefits and services.* Any group officially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group that requests to conduct a meeting as described in paragraph (b)(1) of this section must be given equal access to any other benefits and services provided to one or more outside youth or community groups that are allowed to meet in that same forum. These benefits and services may include, but are not necessarily limited to, school-related means of communication, such as bulletin board notices and literature distribution, and recruitment.

(3) *Fees.* Fees may be charged in connection with the access provided under the Act and this part.

(4) *Terms.* Any access provided under the Act and this part to any group offi-

cially affiliated with the Boy Scouts or officially affiliated with any other Title 36 youth group, as well as any fees charged for this access, must be on terms that are no less favorable than the most favorable terms provided to one or more outside youth or community groups.

(5) *Nondiscrimination.* Any decisions relevant to the provision of equal access must be made on a nondiscriminatory basis. Any determinations of which youth or community groups are outside groups must be made using objective, nondiscriminatory criteria, and these criteria must be used in a consistent, equal, and nondiscriminatory manner.

(Authority: 20 U.S.C. 7905)

§ 108.7 Voluntary sponsorship.

Nothing in the Act or this part shall be construed to require any school, agency, or school served by an agency to sponsor any group officially affiliated with the Boy Scouts or with any other Title 36 youth group.

(Authority: 20 U.S.C. 7905)

§ 108.8 Assurances.

An applicant for funds made available through the Department to which this part applies must submit an assurance that the applicant will comply with the Act and this part. The assurance shall be in effect for the period during which funds made available through the Department are extended. The Department specifies the form of the assurance, including the extent to which assurances will be required concerning the compliance obligations of subgrantees, contractors and subcontractors, and other participants, and provisions that give the United States a right to seek its judicial enforcement. An applicant may incorporate this assurance by reference in subsequent applications to the Department.

(Approved by the Office of Management and Budget under control number 1870-0503.)

(Authority: 20 U.S.C. 7905)

§ 108.9 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of

1964, which are found in 34 CFR 100.6 through 100.11 and 34 CFR part 101, apply to this part, except that, notwithstanding these provisions and any other provision of law, no funds made available through the Department shall be provided to any school, agency, or school served by an agency that fails to comply with the Act or this part.

(Authority: 20 U.S.C. 7905)

PART 110—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

- 110.1 What is the purpose of ED's age discrimination regulations?
- 110.2 To what programs or activities do these regulations apply?
- 110.3 What definitions apply?

Subpart B—Standards for Determining Age Discrimination

- 110.10 Rules against age discrimination.
- 110.11 Definitions of "normal operation" and "statutory objective."
- 110.12 Exceptions to the rules against age discrimination: Normal operation or statutory objective of any program or activity.
- 110.13 Exceptions to the rules against age discrimination: Reasonable factors other than age.
- 110.14 Burden of proof.
- 110.15 Affirmative action by recipients.
- 110.16 Special benefits for children and the elderly.
- 110.17 Age distinctions contained in ED's regulations.

Subpart C—Duties of ED Recipients

- 110.20 General responsibilities.
- 110.21 Notice to subrecipients.
- 110.22 Information requirements.
- 110.23 Assurances required.
- 110.24 Recipient assessment of age distinctions.
- 110.25 Designation of responsible employee, notice, and grievance procedures.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

- 110.30 Compliance reviews.
- 110.31 Complaints.
- 110.32 Mediation.

- 110.33 Investigation.
- 110.34 Prohibition against intimidation or retaliation.
- 110.35 Compliance procedure.
- 110.36 Hearings, decisions, and post-termination proceedings.
- 110.37 Procedure for disbursal of funds to an alternate recipient.
- 110.38 Remedial action by recipients.
- 110.39 Exhaustion of administrative remedies.

AUTHORITY: 42 U.S.C. 6101 *et seq.*, unless otherwise noted.

SOURCE: 58 FR 40197, July 27, 1993, unless otherwise noted.

Subpart A—General

§ 110.1 What is the purpose of ED's age discrimination regulations?

The purpose of these regulations is to set out ED's rules for implementing the Age Discrimination Act of 1975. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act permits federally assisted programs or activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age that meet the requirements of the Act.

(Authority: 42 U.S.C. 6101-6103)

[58 FR 40197, July 27, 1993, as amended at 65 FR 68056, Nov. 13, 2000]

§ 110.2 To what programs or activities do these regulations apply?

(a) These regulations apply to any program or activity receiving Federal financial assistance from ED.

(b) These regulations do not apply to—

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body that—

(i) Provides any benefits or assistance to persons based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms; or

(2) Any employment practice of any employer, employment agency, labor