

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**

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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

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organization, or any labor-management joint apprenticeship training program, except any program or activity receiving Federal financial assistance for employment under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*).

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

### § 110.3 What definitions apply?

The following definitions apply to these regulations: *Act* means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94-135).

*Action* means any act, activity, policy, rule, standard, or method of administration, or the use of any policy, rule, standard, or method of administration.

*Age* means how old a person is, or the number of years from the date of a person's birth.

*Age distinction* means any action using age or an age-related term.

*Age-related term* means a word or words that necessarily imply a particular age or range of ages (e.g., "children," "adult," "older persons," but not "student" or "grade").

*Agency* means a Federal department or agency that is empowered to extend financial assistance.

*Applicant for Federal financial assistance* means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient or subrecipient.

*Department* means the United States Department of Education.

*ED* means the United States Department of Education.

*Federal financial assistance* means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which ED provides or otherwise makes available assistance in the form of—

- (a) Funds;
- (b) Services of Federal personnel; or
- (c) Real and personal property or any interest in or use of property, including—

- (1) Transfers or leases of property for less than fair market value or for reduced consideration; and

- (2) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

*Program or activity* means all of the operations of—

- (a)(1) A department, agency, special purpose district, or other instrumentality of a State or local government; or

- (2) The entity of a 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;

- (b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

- (2) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

- (c)(1) An entire corporation, partnership, other private organization, or an entire sole proprietorship—

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

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

- (2) 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

- (d) Any other entity that is established by two or more of the entities described in paragraph (a), (b), or (c) of this section; any part of which is extended Federal financial assistance.

(Authority: 42 U.S.C. 6107)

*Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency,