

§ 42.734

funding as a result of a change in the manner of computing formula awards.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing. A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Department. A deferral may not continue for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 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 AFFECT-
ING 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

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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, these regulations reflect the same age distinctions between juveniles and adults as are contained in the statute. The same statute also provides for discretionary special emphasis grants for which there are program announcements issued (CFDA No. 16.541), and this program also necessarily reflects the basic statutory distinction based on age.

The Department is authorized to extend financial assistance under the Missing Children's Assistance Act, as amended (42 U.S.C. 5771-5777). This law is concerned with problems related to missing children, and, thus, it contains many age-related references to children, including references in connection with the provision of financial assistance. Program announcements are issued in connection with this program (CFDA No. 16.543).

The Department is authorized to extend financial assistance pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701-3797). Among the statutory purposes of this law is the provision of grants addressing problems related to juvenile delinquency and problems related to crimes committed against elderly persons. Accordingly, this law also reflects the basic distinction between criminal justice systems for adults and juvenile justice systems. This law also singles out elderly persons as a special target group to benefit from its pro-

grams. The Department's regulations concerning block grants authorized under this statute are set forth at 28 CFR part 33. These regulations reflect the statutory authorizations for such block grants, which specifically authorize funds for, among other things, programs addressing problems related to juvenile delinquency and programs addressing the problem of crimes committed against elderly persons (CFDA No. 16.573). Similarly, the statute provides for discretionary grants to enhance and complement the block grants (CFDA No. 16.574) and has been amended to provide a focus on narcotics control (CFDA No. 16.580).

The Department is authorized to extend financial assistance under the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601-10604). Among other things, in order to qualify for funds under one grant program, a state must certify that priority will be given to eligible crime victim assistance programs that help victims of certain crimes, including child abuse. In addition, among the services to victims of crime for which funding is available is "short term child care services" (CFDA Nos. 16.575 and 16.576).

The Department is authorized to make grants to Native American Indian tribes with funds reserved to the Office of Victims of Crime under the Victims of Crime act of 1984, as amended (42 U.S.C. 10601(g)). The primary purpose of the funding is to assist Native American Indian tribes with handling child abuse cases, particularly child sexual abuse (CFDA No. 16.583).

The Department is authorized to extend financial assistance to state and local authorities for narcotics control under the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, 102 Stat. 4181), which extends and/or modifies each of the previously noted laws. The statute reflects the basic distinction between criminal justice systems for adults and juveniles (CFDA Nos. 16.579 and 16.582).