

# **Age Discrimination Act of 1975**

(42 U.S.C. Sections 6101-6107)

## **Section 6101. Statement of purpose**

It is the purpose of this chapter to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance.

## **Section 6102. Prohibition of discrimination**

Pursuant to regulations prescribed under section 6103 of this title, and except as provided by section 6103(b) of this title and section 6103(c) of this title, 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.

## **Section 6103. Regulations**

(a) Publication in Federal Register of proposed general regulations, final general regulations, and anti-discrimination regulations; effective date.

(1) Not later than one year after the transmission of the report required by section 6106(b) of this title, or two and one-half years after November 28, 1975, whichever occurs first, the Secretary of Health and Human Services shall publish in the Federal Register proposed general regulations to carry out the provisions of section 6102 of this title.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of--

(i) the forty-five day period specified in section 6016(e) of this title, and

(ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 6106(d) of this title, and with respect to the comments and recommendations submitted by Federal departments and agencies under section 6106(e) of this title.

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 6106(e) of this title, after

taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 6102 of this title and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before July 1, 1979.

**(b) Nonviolative actions; program or activity exemption.**

(1) it shall not be a violation of any provision of this chapter, or of any regulation issued under this chapter, for any person to take any action otherwise prohibited by the provisions of section 6102 of this title if, in the program or activity involved-

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(A) Such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this chapter shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

**(c) Employment practices and labor-management joint apprenticeship training program exemptions; Age Discrimination in Employment Act unaffected.**

(1) Except with respect to any program or activity receiving Federal financial assistance for public service employment under the Workforce Investment Act of 1998 (29 USC 9201 *et seq.*), nothing in this chapter shall be construed to authorize action under this chapter by any Federal department or agency with respect to any employment practice of any employer, employment agency, or

labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this chapter shall be construed to amend or modify the Age Discrimination in Employment Act of 1967(29 U.S.C. §§ 621-634) as amended, or to affect the rights of responsibilities of any person or party pursuant to such Act.

#### **Section 6104. Enforcement**

(a) Methods of achieving compliance with regulations.

The head of any Federal department or agency who prescribes regulations under section 6103 of this title, may seek to achieve compliance with any regulation--

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity for hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

#### **(b) Limitations on termination of, or on refusal to grant or to continue, assistance; disbursement of withheld funds to achiever agencies.**

Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) of this section shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1) of this section. Any such termination or refusal shall be limited to its effect to the particular program or activity, or part of such program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance. Whenever the head of any Federal department or agency who prescribes regulations under section 6103 of this title withholds funds pursuant to the subsection (a) of this section, he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political s ubdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 6103 of this title.

#### **(c) Advice as to failure to comply with regulation; determination that compliance cannot be secured by voluntary means**

No action may be taken under subsection (a) of this title until the head of the Federal department or agency involved has advised the appropriate person of

the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

**(d) Report to congressional committees**

In the case of any action taken under subsection (a) of this section, the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representative and the Senate having legislative jurisdiction over the program or activity involved. No such action shall take effect until thirty days after the transmission of any such report.

**(e) Injunctions; notice of violations; costs; conditions of actions**

(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than 30 days prior to the commencement of that action to the Secretary of Health and Human Services, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

**(f) Exhaustion of administrative remedies**

With respect to actions brought for relief based on an alleged violation of the provisions of this chapter, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.

**Section 6105. Judicial review**

(a) Revisions of other laws

Any action by any Federal Department or agency under section 6104 of this title shall be subject to such judicial review as any otherwise be provided by law for similar action taken by any such department or agency on other grounds.

**(b) Provisions of Chapter 7 of Title 5; reviewable agency discretion**

In the case of any action by any Federal department or agency under section 6104 of this title which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of Title 5. For purposes of this subsection, any such action shall not be purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title.

**Section 6106. Study of discrimination based on age**

**(a) Study by Commission on Civil Rights**

The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluding from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

**(b) Public hearings**

As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

**(c) Publication of results of analyses, research and studies by independent experts; services of voluntary or uncompensated personnel**

The Commission is authorized to obtain through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 1975d(b) of this title.

**(d) Report to President and Congress; copies to affected Federal departments and agencies; information and technical assistance**

Not later than two years after November 28, 1975, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations. The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

**(e) Comments and recommendations of Federal departments and agencies; submission to President and Congressional committees**

Not later than forty-five working days after receiving a copy of the report required by subsection (d) of this section, each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the President and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

**(f) Cooperation of Federal departments and agencies with Commission**

The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a) of this section, and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

**(g) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

**§ 6106a. Reports to the Secretary and Congress**

**(a) Reports to Secretary**

Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health and Human Services a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 6102 of this title; and (2) containing specific data about program

participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 6102 of this title.

### **(b) Reports to Congress**

Not later than March 31 of each year (beginning in 1980), the Secretary of Health and Human Services shall compile the reports made pursuant to subsection (a) of this section and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 6102 of this title.

### **§ 6107. Definitions**

For the purposes of this chapter--

(1) the term "Commission" means the Commission on Civil Rights;

(2) the term "Secretary" means the Secretary of Health and Human Services;

(3) the term "Federal department or agency" means any agency as defined in section 551 of Title 5 and includes the United States Postal Service and the Postal Rate Commission; and

(4) the term "program or activity" means all of the operations of --

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

(ii) the entity of such 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)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

(ii) a local educational agency (as defined in section 8801 of Title 20), system of vocational education, or other school system;

(C)(i) an entire corporation, partnership, or 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

"(ii) 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 which is established by two or more of the entities described in paragraph (A), (B) or (C); any part of which is extended Federal financial assistance.