

§ 1309.1

18 CFR Ch. XIII (4-1-00 Edition)

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AUTHORITY: TVA Act of 1933, 48 Stat. 58 (1933), as amended, 16 U.S.C. 831-831dd (1976), and sec. 304 of the Age Discrimination Act of 1975, 89 Stat 729 (1975), as amended, 42 U.S.C. 6103 (1976).

SOURCE: 46 FR 30811, June 11, 1981, unless otherwise noted.

**§ 1309.1 What are the defined terms in this part and what do they mean?**

As used in this part the following terms have the stated meanings:

- (a) *Act* means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (Title III of Pub. L. 94-135).
- (b) *Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.
- (c) *Age* means how old a person is, or the number of elapsed years from the date of a person's birth.
- (d) *Age distinction* means any action using age or an age-related term.
- (e) *Age-related term* means a term which necessarily implies a particular

age or range of ages (for example, "children," "adult," "older persons," but not "student").

(f) *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 TVA provides or otherwise makes available to a recipient assistance in any of the following forms:

- (1) Funds;
- (2) Services of TVA personnel;
- (3) Real and personal property or any interest in or use of property, including:
  - (i) Transfers or leases of property for less than fair market value or for reduced consideration; and
  - (ii) Proceeds from a subsequent transfer or lease of property if the share of its fair market value provided by TVA is not returned to TVA.

(g) For purposes of §§ 1309.6 and 1309.7, *normal operation* means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(h) For purposes of §§ 1309.6 and 1309.7, *statutory objective* means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(i) *Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any State-created or recognized public or private agency, institution, organization, or other entity, or any person to which TVA extends financial assistance directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

(j) *Secretary* means the Secretary of the Department of Health, Education, and Welfare, and its successors.

(k) *United States* means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

## Tennessee Valley Authority

## § 1309.6

(l) *TVA* means the Tennessee Valley Authority.

### § 1309.2 What is the purpose of the Act?

The Act is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs and activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this part.

### § 1309.3 What is the purpose of this part?

The purpose of this part is to effectuate the Act in all programs or activities of recipients which receive financial assistance from TVA, and to inform the public and the recipients of financial assistance from TVA of the Act's requirements and how it will be enforced.

### § 1309.4 What programs and activities are covered by the Act and this part?

(a) The Act and this part apply to any program or activity receiving financial assistance from TVA.

(b) The Act and this part 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 which:

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

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

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

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

### § 1309.5 What are the rules against age discrimination?

(a) *General rule.* 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 financial assistance from TVA.

(b) *Specific rules.* In any program or activity receiving financial assistance from TVA, a recipient may not directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving financial assistance from TVA, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving financial assistance from TVA.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) The rules stated in this section are limited by the exceptions contained in §§ 1309.6 and 1309.7.

### § 1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?

A recipient is permitted to take an action, otherwise prohibited by § 1309.5, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) It is impractical to measure the other characteristic(s) directly on an individual basis.