

ANNUAL REPORT TO CONGRESS

ON IMPLEMENTATION OF

THE AGE DISCRIMINATION ACT OF 1975

FISCAL YEAR 2018

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BACKGROUND

In November 1975, Congress enacted the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), hereafter referred to as the “Age Act,” as part of an amendment of the Older Americans Act (P.L. 94-135). The Age Act prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance (FFA). Prohibited discriminatory acts include acts that have the effect of excluding, denying, or limiting services to individuals, or otherwise discriminating, on the basis of age.

The Age Act does not apply to programs of direct assistance, in which federal funds flow directly and unconditionally from the federal government to individual beneficiaries. The Age Act also does not prohibit the use of age as a factor that is necessary to the normal operation of a program, and it does not apply to age distinctions established under the authority of any federal, state, or local statute, or ordinance adopted by an elected, general purpose legislative body, including distinctions that create special benefits for old or young persons. In addition, the Age Act does not apply to discrimination on the basis of age in employment, which is covered by the Age Discrimination in Employment Act (ADEA). The ADEA is administered by the Equal Employment Opportunity Commission (EEOC).

The Age Act gives the Department of Health and Human Services (HHS) the responsibility of coordinating the federal government’s efforts to comply with the Age Act. Section 308(n) of the Age Act requires the Secretary of HHS to compile and analyze reports submitted from each federal agency implementing the Age Act. Each federal agency that provides FFA to programs and activities must submit a report to the Secretary of HHS describing steps taken to implement the Age Act during the preceding fiscal year. The Annual Report to Congress on Implementation of the Age Discrimination Act (Age Act Report) is a summary and analysis of the individual reports forwarded by these agencies. This is the 37th Age Act Report submitted to Congress.

SUMMARY OF ACTIVITIES

I. Introduction

The Fiscal Year (FY) 2018 data request was sent by the HHS Office for Civil Rights (OCR) to 28 federal agencies that administer FFA programs covered by the Age Act. Agencies’ responses to the data request indicate that they continued to take steps in FY 2018 to advance the goal of the Age Act and prohibit discrimination on the basis of age in programs or activities receiving FFA.

This Report covers the following areas:

A. Development of Age Act Regulations

This area showed no change since FY 2017, although there had been significant advancement between FY 2014 and FY 2017, when two agencies published their Age Act regulations, after receiving guidance from HHS. Twenty-four of the 28 agencies have published Age Act

regulations. The remaining four agencies have made progress recently in developing their own regulations. HHS will continue to provide guidance to these agencies, review and provide assistance on their draft regulations, and confer with them on their draft regulations.

B. Complaints

In FY 2018, there was a slight decrease from the last fiscal year in the number of new Age Act complaint receipts. Only eight agencies received new complaints in FY 2018, for a total of 862 complaints, which is a decrease from 885 new complaints in FY 2017. The Department of Education (ED) received the most complaints (about 69%), followed by HHS (14%) and the Department of Agriculture (USDA) (7%). Ten agencies reported resolving new and older complaint investigations in FY 2018.

C. Mediation

Six of the eight agencies that received new complaints in FY 2018 referred a total of 290 of those complaints to the Federal Mediation and Conciliation Service (FMCS) for mediation. The number of agencies referring age discrimination complaints to FMCS increased from 58% in FY 2014, to 73% in FY 2017, and now to 75% in FY 2018, thus demonstrating an increased use of mediation services. FMCS has spent the last several years enhancing its services through educational work, development of new and simpler referral forms, and presentations at conferences to help federal agencies refer their complaints to FMCS more efficiently.

D. Compliance Reviews

In both FY 2017 and FY 2018, this area showed a significant decrease in activity from previous years. Seven federal agencies had a FY 2018 combined workload of 450 compliance (pre-award and post-award) reviews, a number that reflects a reduction from thousands in all the fiscal years before FY 2017. This reduction is primarily attributable to the decrease of the USDA and HHS compliance review caseload. The seven agencies that conducted compliance reviews in FY 2018 resolved, or closed, 95% of the total caseload of compliance reviews, mostly with no violation findings.

E. Significant Cases

This area has remained fairly steady through the years. There were slightly fewer agencies reporting significant cases in FY 2018 than in FY 2017, but slightly higher than in the years before FY 2017.

F. Technical Assistance and Outreach, Staff Training, and Other Activities

All 28 federal agencies reported Age Act activities in the areas of technical assistance and outreach, training, and other awareness-raising initiatives. This is a higher number of agencies than in previous fiscal years, except for FY 2017, when all 28 also reported activities in the area of technical assistance, outreach, and training. Most activities were continuations of programs from previous years, demonstrating an ongoing and serious commitment on the part of the

federal government to enforce the Age Act and to continue innovative programs to decrease age discrimination in federally funded programs.

Sections II through VII below summarize in greater detail the information submitted to HHS, and Section VIII provides an analysis and conclusion.¹

II. Status of Agencies' Regulations

There were significant advances in the development of Age Act regulations between FY 2014 and FY 2017, but there were no new developments in FY 2018. Twenty-four of the 28 agencies have published final Age Act regulations. In addition, the other four agencies made progress in developing their regulations over the past few years, as follows:

- The Corporation for National and Community Service (CNCS) is working to combine civil rights regulations for federally assisted and conducted programs, including age discrimination regulations, into one comprehensive regulation. They will consult with HHS once they are farther along in the process.
- The Department of Defense (DOD) revised its draft regulation, which was reviewed by all its components. Final legal review led to several changes in the complaints process, and the instructions are being revised accordingly. Publication of the final regulation is expected in FY 2019 or 2020.
- The Department of Transportation (DOT) reached out to HHS in FY 2015 to begin the process of developing its Age Act regulation. HHS will review DOT's draft when it is complete.
- The National Credit Union Administration (NCUA) has been working with HHS and the Department of Justice (DOJ) to develop regulations to implement the Age Act. NCUA received approval for the proposed regulations from HHS in 2010, and it is waiting for DOJ's final comments. NCUA reported that it appreciates HHS's review and commits to making the technical corrections identified in § 730.201(f) before publishing proposed Part 730 in the Federal Register.

HHS will continue to review draft regulations and offer assistance to the agencies that have not published regulations.²

III. Complaint Activity

During FY 2018, ten federal agencies reported conducting at least one age discrimination complaint investigation, and eight of the agencies reported receiving at least one new FY 2018 age discrimination complaint, yielding a total of 862 new complaints. The FY 2018 new receipts combined with the 479 complaints carried over from previous fiscal years created a government-

¹ Appendix A contains a List of Abbreviations and Acronyms.

² Agencies' reports regarding the status of publication of their regulations are in Appendix B.

wide workload of 1,341 Age Act complaints. As illustrated in Table 1 below, the number of age discrimination complaints received by federal agencies decreased slightly in FY 2018 from the previous fiscal year. A majority of complaints in FY 2018 were received by ED (69%), followed by HHS (14%), and USDA (7%). The numbers of complaints filed at other agencies were small in comparison, and many agencies did not receive any age discrimination complaints in the time period between FY 2011 and FY 2018.

Table 1: Age Discrimination Complaints Received

(Only agencies that received one or more new complaints from FY 2011 to FY 2018 are listed.)

AGENCY	FY 2011	FY 2012	FY 2013	FY 2014	FY 2017	FY 2018
CNCS	4	0	3	4	4	0
DOD	0	0	0	0	1	0
DHS	4	6	0	0	0	0
DOE	0	0	0	0	2	0
DOI	1	1	1	0	0	0
DOJ	4	3	26	8	0	8
DOL	39	25	19	24	18	30
DOS	8	13	9	9	13	8
DOT	1	2	1	0	0	0
ED	528	511	522	651	672	592
EPA	0	1	0	0	0	0
HHS	51	67	53	48	75	122
HUD	2	14	6	5	49	32
IMLS	0	0	1	0	2	0
NEA	0	0	0	0	1	0
NRC	0	0	0	2	0	0
USDA	49	32	58	35	48	62
VA	0	1	2	1	0	8
TOTALS	691	676	701	787	885	862

The issues raised in age-related complaints received by agencies in FY 2018 varied based on the programs administered by each agency. The most frequently cited issues in age discrimination complaints involved denial of benefits or services by a program receiving FFA (reported by eight out of the ten agencies), employment issues, such as early termination (reported by five out of the ten agencies), and harassment or poor treatment (reported by four out of the ten agencies).

In past reports submitted by HHS, general denial of services by health care professionals was by far the most frequent allegation (approximately 75%). In FY 2018, only 33% of the complaints involved general denial of services and discrimination in services performed. Forty-three percent involved denial of medication and/or denial of services (or rate changes) under Medicare

or under other health insurers. Eight percent involved discrimination in child welfare programs and services (e.g., adoptions, foster care and custody), which represents a lower percentage than last year but higher than in years before FY 2017. The other 15% involved a variety of allegations, including issues related to licensure and employment, admittance to doctoral and medical programs, and denials of opportunities to live in the least restrictive environment (home setting instead of a nursing home). Some of the changes in the types of complaints received in FY 2018 may be in response to the final rule implementing Section 1557 of the Affordable Care Act (ACA). Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. As a result of the Section 1557 regulation, insurance companies that participate in the ACA State-based Marketplaces or Federally-facilitated assisted Marketplaces are now considered covered entities with regard to the Age Act and must comply with the Age Act.

The USDA³ FNS complaint activity allegations for FY 2018 focused on poor customer service and a lack of understanding of program rules and eligibility requirements in relation to recipient income and resources. The Department of Housing and Urban Development (HUD) received complaints centered on refusal to rent based on age, while ED received complaints that alleged denial of entrance into certain postsecondary educational institutions based on age, or denial of campus housing based on age.

Table 2 below illustrates the total cases closed by each agency and the results of the investigations of those cases.

Table 2: Total Cases Resolved or Closed in FY 2018 by Closure Type

Agency	TOTAL	Insufficient Evidence of Violation	Specific Finding of Violation	Agreement to Implement Corrective Action	Closed Administratively
DOJ	9	3	0	0	6
DOL	30	14	0	1	15
DOS	7	1	0	0	6
DOT	1	0	0	1	0
ED	685	43	8	10	624
HHS	184	15	0	10	159
HUD	38	32	0	2	4
IMLS	1	0	0	0	1
USDA	62	33	0	0	29
VA	7	1	0	3	3
TOTAL	1,024	142	8	27	847

³ USDA discusses Age Act related activities in the following of its agencies: Animal and Plant Health Inspection Service (APHIS); Food and Nutrition Service (FNS); Food Safety and Inspection Service (FSIS); Forest Service (FS); and National Institute of Food and Agriculture (NIFA).

Table 2 indicates that a majority (83%) of cases closed by the agencies were closed administratively. Fourteen percent were closed because of insufficient evidence of a violation, and three percent were resolved with an agreement for corrective action or other change without a specific Letter of Findings.⁴

IV. Mediation

The government-wide regulation implementing the Age Act requires that age-related complaints received by agencies that administer programs receiving FFA be referred for mediation by an agency designated by the Secretary of HHS. The HHS Secretary designated FMCS as that agency.

According to agency-supplied data, six of the eight federal agencies (75% - similar to the percentage in FY 2017, but larger than in the fiscal years before 2017) that received new age discrimination complaints in FY 2018 referred them to FMCS in FY 2018. Those eight agencies are: the Department of Labor (DOL), the Department of State (DOS), ED, HHS, HUD, and USDA. Agency-supplied data show that a total of 290 complaints were referred to FMCS in FY 2018 for mediation by these six agencies. According to agency information, 66 of the 290 cases (or 23%) ended in an agreement, and 224 ended in unsuccessful mediation. While 66 is a small number of cases resolved through mediation, this percentage is slightly greater than FY 2017 (17%), and a far greater percentage than in in FY 2014, when only one percent of the cases referred to FMCS was successfully mediated.

Four agencies did not refer any Age Act complaints to FMCS (one agency used another mediation service), and the eight agencies listed above did not refer all of their complaints to FMCS. A total of 571 complaints were not referred to FMCS in FY 2018, because they were either referred in previous years, closed administratively, had not yet been triaged, or were not referred “for other reasons.”

Over the past few years, FMCS has worked with HHS to promote its mediation services through educational work. FMCS developed and disseminated to federal agencies a new, simpler form for requests for mediation. FMCS also spoke at conferences to explain their services, distribute the new forms, and provide technical assistance. This has encouraged federal agencies to refer more complaints to FMCS; as a result, increased numbers of complaints are being referred to FMCS and there has been an increase in the success rates of mediation. HHS and FMCS will continue to work to increase the success of mediation.

V. Compliance Reviews

Age Act compliance reviews generally focus on compliance with procedural requirements, such as the notice of nondiscrimination, and use of age as a factor in recipients’ programs. Regarding compliance review activity for FY 2018, agencies reported a wide range of activities, from limited pre-award desk-audits to post-award on-site visits, docket reviews, and interviews with

⁴ Agencies’ reports on age discrimination complaint activity appear in [Appendix C](#).

recipients in order to assess compliance. The majority of reviews involved a pre-award assessment of overall compliance with federal civil rights laws as part of a broader assessment of programmatic requirements for receipt of FFA. Post-award assessments of compliance with the Age Act were generally conducted as one part of an assessment of compliance with multiple federal civil rights laws.

In FY 2018, seven of the 28 federal agencies reported conducting compliance reviews. Six of the seven reported initiating new compliance reviews, and one reported working on only carry-over compliance review. The seven agencies reported a combined FY 2018 caseload of 450 pre-award and post-award compliance reviews that included the Age Act as a component of the reviews. A majority of the compliance reviews were conducted by CNCS, DOT, General Services Administration (GSA), U.S. Nuclear Regulatory Commission (NRC), Tennessee Valley Authority (TVA), and USDA.

The following table (Table 3) reflects agency-conducted compliance reviews that addressed Age Act requirements from FY 2012 through FY 2018 (with no information for FY 2015 and FY 2016, because there was no Age Act Report for those two years).

Table 3: Total Compliance Review Workload FY2012-2018
(by agencies reporting compliance review activity)

AGENCY	FY 2012	FY 2013	FY 2014	FY 2017	FY 2018
CNCS	114	129	131	195	287
DOT	0	0	0	43	33
GSA	0	0	0	4	11
HHS	2800	2535	3137	0	0
HUD	0	0	2	0	0
NASA	2	1	1	1	0
NRC	106	53	84	46	51
TVA	81	26	27	12	17
USDA	5333	2439	3119	50	50
TOTALS	8436	5183	6499	361	449

Table 3 demonstrates that the number of compliance reviews government-wide decreased dramatically in FY 2017 from all the previous fiscal years and increased only very slightly in FY 2018 over FY 2017. The big decrease in FY 2017 reflects a significant reduction in the number of compliance reviews conducted by HHS and USDA.

USDA reported that the decrease was due to budget constraints and limited staff resources in both FY 2017 and FY 2018. HHS dramatically reduced its number of compliance reviews because it stopped conducting formal pre-award reviews in FY 2016. HHS OCR migrated its pre-award compliance review program (which reported approximately 2,500 to 3,100 compliance reviews per year) of healthcare providers that apply to participate in the Medicare Part A program to a more streamlined way to process new applicants by attestation and technical assistance through OCR's web portal. Although HHS no longer conducts formal pre-award

compliance reviews, it continues to provide civil rights technical assistance through web links during the new attestation process.

The seven federal agencies that conducted compliance reviews in FY 2018 resolved or closed, as a group, 425 of the 449 reviews (or 95% of the total compliance review caseload) in FY 2018. Table 4, below, includes information about the resolution of these compliance reviews.

Table 4: Total Compliance Reviews Resolved in FY 2018 by Closure Type

Agency	TOTAL	Insufficient Evidence of Violation	Specific Finding of Violation	Agreement to Implement Corrective Action	Closed Admin.
CNCS	287	287	0	0	0
DOJ	1 (carry-in)	0	0	0	1
DOT	33	33	0	0	0
GSA	11	11	0	0	0
NRC	51	0	0	0	51
TVA	17	17	0	0	0
USDA	26	17	0	9	0
TOTAL	425	365	0	9	51

The chart reveals that most compliance reviews were resolved without a finding of a violation, or administratively. A small number, nine (within USDA), were resolved by corrective action.⁵

VI. Significant Cases

Of the 28 federal agencies, four (DOL, DOT, ED, and HHS) reported significant cases. This is a slightly lower number of agencies than last year, but slightly higher than in years before FY 2017, when no more than two or three agencies reported significant cases. Below are brief summaries of a few of the significant cases that were reported:

DOT — DOT received one complaint in FY 2016, which carried over to FY 2018 and was officially closed on April 30, 2018. The complainant alleged that a recently constructed toll road did not address a senior citizen community’s concerns and requests for toll free access to local roads. The complainant received monetary compensation for the use of the toll road from a non-federal agency.

ED — ED’s Office for Civil Rights (OCR) provided examples of eight cases that proved to be significant due to the novelty of the issues alleged and the nature of the resolutions of the complaint investigations. Two of these cases are described below:

⁵ Agencies’ reports on compliance review activities are contained in [Appendix E](#).

- For one complaint, ED OCR investigated whether a postsecondary educational institution discriminated against the complainant, on the basis of age, when the educational institution denied the complainant's request to reside in campus housing. The investigation concluded with the implementation of a resolution agreement that addressed the complainant's issue and included the institution's: (1) revision of its housing policy to ensure that it fully complies with the Age Act; (2) development of Age Act training for administrators and staff involved in campus housing assignments; and (3) provision of information to ED OCR in accordance with the monitoring provisions of the agreement.
- For another complaint, ED OCR investigated whether a postsecondary educational institution discriminated against the complainant, on the basis of age, when the educational institution allegedly refused to admit the student into its police academy program solely because of the complainant's age. The educational institution implemented a resolution agreement to: (1) remove the age restriction from the admission application, and (2) publish the revised application, after ED OCR's review, on the educational institution's website.

HHS —In FY 2018, ten cases were resolved with an agreement to implement corrective action or other change. One case was of particular interest, as follows:

- The complainant alleged that a county child welfare agency discriminated against her based on her age (67) and her mobility impairment when it determined that she was not an appropriate caregiver for her great-grandchild who had been placed in the agency's custody. Although HHS OCR's investigation found there were legitimate, non-discriminatory reasons for the complainant to be denied custody of her great-grandchild, it also revealed that the agency failed to have: (1) nondiscrimination policies or procedures for its child welfare programs; (2) an adequate grievance process to address discrimination complaints; and (3) a process for providing reasonable modifications and auxiliary aids in a timely manner for its clients with disabilities. OCR provided technical assistance, and the agency completed a series of voluntary compliance actions that included developing and implementing nondiscrimination policies, grievance procedures, and reasonable modification and auxiliary aids policies and procedures.

VII. Technical Assistance and Outreach, Staff Training, and Other Activities

All 28 federal agencies reported conducting activities in at least one of the following three areas: (1) technical assistance and outreach, (2) staff training, and (3) other activities. Twenty-four federal agencies reported providing technical assistance and outreach to recipients of FFA, beneficiaries, and the public in FY 2018. Seventeen agencies reported conducting staff training on the Age Act, and 19 agencies reported other activities in support of compliance with the Age Act. The sub-sections that follow below provide examples of the efforts federal agencies took to promote compliance with the Age Act.

A. Technical Assistance and Outreach

As mentioned above, 24 agencies reported providing technical assistance and outreach to recipients, beneficiaries, and the public during FY 2018. These activities included, among others: technical assistance during compliance reviews or upon request by recipients; presentations; training events; workshops; conferences on civil rights issues for grantees and the public; information on websites; and distribution of fact sheets, posters, and other information by mail or at conferences.

- In FY 2018, the Department of Homeland Security (DHS), DOT, the National Aeronautics and Space Administration (NASA), USDA, and the Department of Veterans Affairs (VA) developed the following noteworthy technical assistance tools and guides:
 - DHS Office for Civil Rights and Civil Liberties (CRCL) implemented a Civil Rights Evaluation Tool for recipients of FFA. As part of the Biennial Tool Submission Process, recipients provide DHS with information on civil rights policies, procedures and complaints (including complaints that allege violations of the Age Act), and DHS provides technical assistance to recipients as needed to ensure civil rights nondiscrimination.
 - DOT's NHTSA provided funding, through the California Office of Traffic Safety, to the University of California at Berkeley Safe Transportation Research and Education Center. In FY 2018, that program published *Safe Routes for Older Adults*, a tool/guide that provides communities with background information on walking and bicycling safety for older adults, and tools to make transportation in California age-friendly for all.⁶
 - NASA's Administrator issued a policy letter to inform grantees that all programs receiving NASA funding must comply with civil rights regulations, including the Age Act regulations. NASA also issued a new policy directive advancing diversity and inclusion in all STEM-related activities in which NASA and its grantees engage. Currently, NASA is developing new grant conditions requiring grantee institutions to inform NASA when there has been a finding of discrimination (including age discrimination) against a NASA principal investigator. These conditions will help NASA remedy discriminatory actions, including but not limited to, moving grant funding to another staff person or unit.
 - USDA's FS continued to distribute *And Justice for All* posters, to new and existing recipients of domestic grants, cooperative agreements, grazing authorization, and commercial special use permits. The FS requires its recipients to put the posters in visible locations. The posters contain a nondiscrimination notice that prohibits discrimination on many civil rights bases, including age.
 - The VA's Veterans Benefits Administration's (VBA) poster, *Equal Opportunity is the Law*, provides information regarding individuals' rights under the Age Act

⁶ DOT discusses Age Act related activities in the following of its agencies: Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Transit Administration (FTA); and National Highway Traffic Safety Administration (NHTSA).

and other laws to applicants, participants, and other interested persons in recipient schools.⁷

- DOL, DOT, ED, Environmental Protection Agency (EPA), HHS, National Endowment for the Arts (NEA), NRC, National Science Foundation (NSF) and USDA provided considerable civil rights outreach through presentations and conferences:
 - DOL Civil Rights Center (CRC) developed and presented a National Training Conference for 50 state-level employees. The conference featured appearances by the Secretary of Labor and Assistant Deputy Attorney General, among others. The conference included information regarding age discrimination, the requirements to collect and analyze data, and techniques to investigate and address potential discrimination. CRC also developed a web-based training for over 11,000 staff and contractors of the Job Corps program concerning age discrimination.
 - DOT's FMCSA and FHWA provided presentations to applicants and recipients that included the Age Act. The 9th Annual FAA National Civil Rights Training Conference focused on how airports can prevent discrimination and can increase accessibility for all travelers, including older travelers. DOT's FTA also conducted numerous trainings and participated in conferences that emphasized compliance with non-discrimination authorities, including the Age Act.
 - ED conducted several presentations on its civil rights enforcement authorities and case processing tools that included the Age Act. Audiences included administrators and staff from various ED grantees, parent groups, advocacy organizations, attorneys, and law students.
 - EPA's External Civil Rights Compliance Office (ECRCO) provided training and technical assistance on all nondiscrimination authorities it enforces, including the Age Act, to state and local agencies, and tribal governments in FY 2018.
 - HHS OCR presented information about the Age Act at 31 conferences and workshops. For example, OCR's regional office in New York City provided three presentations to long-term care coalitions that focused on the elderly community. These presentations provided information on the intersection of civil rights and nursing home life, among other issues.
 - NEA's Office of Accessibility conducted a series of presentations and workshops for its grantees, as well as organizations dedicated to the aging field. The purpose of these sessions was to educate participants on making quality arts programs available for older adults and people with disabilities.

⁷ VA discusses Age Act related activities in the following of its agencies: National Cemetery Administration (NCA); Veterans Benefits Administration (VBA); and Veterans Health Administration (VHA).

- NRC informed stakeholders (including approximately 150 prospective recipients) of the NRC's pre- and post-award compliance review programs and processes, making stakeholders aware of applicable nondiscrimination regulations (including the Age Act regulations), regulatory requirements, and the process to achieve voluntary compliance.
- NSF's staff presented Age Act information to recipients at NSF grant conferences, scientific conferences, Program Directorate Advisory Committee meetings, and various NSF workshops.
- USDA FNS Civil Rights staff taught the requirements of the Age Act through trainings, meetings, conferences, and on-site reviews. USDA also conducted training on the Age Act and other laws at the Food Distribution Program Regional Conferences in Nevada, Florida, Texas, and New Mexico. USDA's NIFA provided its annual civil rights and equal opportunity training for approximately 585 grantees and internal staff.
- Many agencies reported using their websites to provide information regarding civil rights to their FFA recipients and the public:
 - The Department of Commerce (DOC) provides information about civil rights, including the Age Act, to recipients and the public on its Office of Civil Rights website, www.osec.doc.gov/ocr.
 - The Department of Energy (DOE) has a website that contains information about the Age Act and its internal and external civil rights programs at www.energy.gov/diversity/services/civil-rights.
 - DHS's public-facing website for DHS's Office for Civil Rights and Civil Liberties (CRCL) includes information for recipients on their civil rights obligations, including compliance with the Age Act. It is available at <https://www.dhs.gov/topic/civil-rights-and-civil-liberties>. Recipient resources can be found at <https://www.dhs.gov/resources-recipients-dhs-financial-assistance>.
 - The Department of the Interior (DOI) distributes information regarding non-discrimination policies through individual agency websites, which includes information on the Age Act. EPA's website (www.epa.gov/civilrights) includes information about the civil rights laws administered by EPA, including the Age Act.
 - DOJ maintains a website at www.ojp.gov/ocr, which contains information on all civil rights laws connected to FFA, including the Age Act, and the procedures for filing a complaint. DOJ has created a series of instructional web videos informing grantees of their civil rights obligations. As an example, the Age Act

is covered in the training video entitled, “What is the Office for Civil Rights and What Laws Does It Enforce?”

- HHS OCR maintains a website with Age Act information at www.hhs.gov/ocr/age. Additionally, OCR’s fact sheet regarding the Age Act is available on the website in the following languages: English, Spanish, Korean, Tagalog, Vietnamese, Chinese, Polish, and Russian.
- HUD’s website, www.HUD.gov, provides ample information for the public on the Age Act, including a description of the Age Act, the discrimination prohibited, and the process for filing a complaint based on age. The public may also seek assistance with Fair Housing questions through HUD’s toll-free number, available on the website.
- The Institute of Museum and Library Services (IMLS) has an extranet site that is specifically designed to help grantees access updated IMLS grant award requirements, policies, and compliance information that include applicable civil rights laws, such as the Age Act.
- NRC, NSF, and TVA post information and educational materials on their websites regarding civil rights programs (including the Age Act), complaint forms and assurance of compliance forms.
- USDA encourages recipients and sub-recipients to use nondiscrimination informational materials and sources posted on its website. For example, the FSIS Civil Rights staff instituted a new program, entitled, “At Least Equal To.” The program is intended to guide the State Meat and Poultry Inspection Program employees through the agency’s website to address civil rights requirements, including prohibiting discrimination based on age.
- The VA’s National Cemetery Administration (NCA) provides technical assistance regarding civil rights laws and regulations (including the Age Act) to newly established State and Tribal cemeteries through its website.

B. Agency Staff Training

Seventeen agencies reported staff training on the Age Act, often including the training as part of a larger training module on civil rights laws. Training was provided in a variety of settings, including orientations, meetings, and online tutorials. Highlights of agency trainings are below:

- DOI’s OCR hosts monthly meetings for its staff to discuss issues relating to the various civil rights requirements. During FY 2018, DOI’s OCR and Bureau civil rights staff also participated in various conferences and training programs with federal, state, and local personnel where civil rights statutes, including the Age Act, were presented and discussed.

- The U.S. Agency for Global Media/Broadcasting Board of Governors (USAGM/BBG) (formerly known as the Broadcasting Board of Governors (BBG)), DOI, DOS, ED, GSA, HHS, HUD, IMLS, NEA, NEH, NRC, NSF, TVA, USDA, and VA all conduct civil rights training for their staff on a periodic basis, with special emphasis on providing training to new staff. The training includes the requirements of the Age Act.
- Several agencies reported developing manuals, training materials, and examples of scenarios for use in training programs, on complaint processing, and general civil rights requirements, including information on the Age Act. NEA, NRC, NSF, and USDA reported on details of these manuals.
- IMLS managers, program officers, and staff employees are provided periodic civil rights (including Age Act) training throughout the year. In addition, in FY 2018, IMLS provided updated civil rights training to program staff employees in preparation for their bi-annual Chief Officers' meetings and other grantee workshops.
- DOT staff members of the FHWA attended a national training conference of state civil rights specialists. In addition, 27 FHWA civil rights staff attended training in Washington, D.C. Both sets of training included ensuring compliance with the Age Act.
- NSF provides training opportunities for staff through its training unit "LearnNSF," including a course on the Age Act and other non-discrimination laws. NSF staff members participate in the New Employees Orientation, which provides an overview on civil rights, including the Age Act. Additionally, in its continuous efforts to educate employees, NSF's Office of Diversity and Inclusion (ODI) addressed age discrimination in its NoFEAR training module and New Employee Orientation in FY 2018. NSF estimates that several hundred individuals were trained in these modules.
- NRC conducted civil rights training in FY 2018 to its offices. The training focused on NRC's civil rights role for targeted areas undergoing a routine audit of an agency's compliance with federal regulations and agency policies, including the Age Act. In addition, NRC provided its employees with management directives and accompanying handbooks that cover fair practice and civil rights laws, including the Age Act.
- USDA conducted significant staff training throughout FY 2018. In addition to ongoing civil rights training for current and new staff, USDA conducted specific training for certain groups. A few examples include:
 - Annual training for managers, supervisors, and employees included efforts to foster a better understanding of how the Age Act and other civil rights laws are applicable in interactions among internal staff and customers. APHIS Inspection Services provided an Age Act webinar to 115 supervisory and non-supervisory employees.

- USDA's FS conducted 15 training sessions on civil rights requirements (including requirements in the Age Act regulation) to 600 agency Civil Rights Service Centers Staff members.
- FNS provided training (including on the Age Act) to agency programs staff, as age is an applicable basis to all nutrition assistance programs. The training included scenarios to illustrate age related issues. The training was provided to staff in Child Nutrition, National School Lunch, SNAP, Women, Infants, and Children (WIC), and other programs.
- VA provided training every quarter in FY 2018 to over 60 supervisors. In addition, the VHA within the VA provided training on the civil rights complaint program to over 100 VHA staff members. VBA's Education Contract Compliance Specialists examined the proprietary schools' policy statements and student catalogs to ensure that they contained Age Act compliance information.

C. Other Agency Activities

Nineteen federal agencies reported other activities conducted in FY 2018 to facilitate enforcement and implementation of the Age Act. Examples of noteworthy activities follow:

- Several agencies conduct periodic desk audits and/or pre-award reviews of their recipients of FFA. These include CNCS, DOE, DHS, DOL, IMLS, NRC, and USDA. In addition, several agencies provide posters, on-site visits, webinars, in addition to pre-award reviews, to special subsections of their agencies, recipients, and the public. These agencies include GSA, HHS, HUD, and DOI.
- Many agencies require grant applicants to submit assurances that they will comply with civil rights laws and regulations, including the Age Act. These agencies include DOC, DOE, DHS, DOJ, DOS, HHS, IMLS, NCU, NRC, the United States Agency for International Development (USAID), and USDA.
- HHS is responsible for coordinating the federal government's compliance efforts under the Age Act. Each year, HHS OCR compiles the Annual Age Act Report on federal agencies' age discrimination activities. The Report is a summary and analysis of the individual reports from federal Departments and agencies that have responsibilities under the Age Act. HHS evaluates the extent to which agencies have implemented the provisions of the Age Act, writes the report, and provides technical assistance, as needed. As lead agency for enforcement of the Age Act, HHS OCR also responds to questions from other federal agencies regarding development of their regulations, the implementation of their investigative and mediation processes, and the resolution of their challenging or novel complaints.
- USDA oversaw civil rights self-assessments (including assessments of compliance with the Age Act) that were conducted by their 27 State Meat and Poultry Inspection

Programs. The self-assessments evaluated the programs' nondiscrimination policies, public notification efforts, and program accountability of their civil rights programs.

- Several agencies (NEA, NEH, DOT, and USDA) reported on ways to enhance the participation of individuals in certain age ranges (in particular, senior citizens) that may be underrepresented in the agencies' programs. Some examples follow:
 - NEA convened a federal interagency task force on the Arts and Human Development to encourage improved research on how the arts can assist individuals at all stages of life, especially older individuals. Task force members included staff from HHS, the National Institutes of Health, NSF, and ED, among others. In FY 2018, NEA's Office of Research and Analysis co-chaired a panel discussion on innovative arts and media-based approaches to promote health and well-being for older adults.
 - NEA provides advocacy and technical assistance to make the arts accessible to people with disabilities and older adults, and to eliminate barriers that may impede the full participation of older individuals in arts activities. To help achieve this goal, NEA entered into several cooperative agreements with NEH grantees, arts service organizations, federal agencies, and private groups representing older Americans and persons with disabilities. NEA's efforts further implement the Age Act by increasing accessibility for older adults with limited hearing, eyesight, and mobility. In one cooperative agreement, awarded in May 2016, NEA developed a website to provide information and resources for the field of creative aging. The website was launched in January 2018.
 - NEH demonstrated support of the Age Act through projects benefitting older Americans, to ensure that older Americans are included in its programs and activities. For example, older scholars are involved in many research and teaching programs, and senior scholars serve as effective review panelists and reviewers for NEH research and education programs. In FY 2018, more than 440 communities hosted NEH-funded reading and discussion programs for seniors in libraries and community centers.
 - NEH makes grants to humanities councils throughout the country, to support a variety of museum exhibitions, library book programs, and educational campaigns that engage older Americans, and to give them the opportunity to pursue education activities in their communities. For example in Kentucky, New Hampshire, Washington, West Virginia, and several other states, Humanities Councils brought performers and lecturers to community settings and offered high-quality cultural programs to the public at minimal cost.
 - DOT funded programs designed to enhance the participation of older persons that are otherwise underrepresented in transportation programming. For example, FHWA assisted state agencies in Washington and Kentucky to mitigate the impacts of tolling on low-income and older populations. The plans involved

finding low-cost commuting alternatives. The NHTSA Older Driver Program represents a proactive step by DOT to educate the public on safety as it relates to older drivers. The Older Driver Program includes plans, toolkits, and trainings to assist law enforcement and medical professionals with helping ensure the safety of older drivers on the road. In FY 2018, FTA announced the availability of \$6.3 million for transit coordination projects that improve access to healthcare for seniors, persons with disabilities, and low-income persons.

- USDA continues to ensure accessibility to its programs, given an increasing aging population in the U.S. In FY 2018, USDA (in conjunction with other agencies) continued to sponsor the Interagency Senior Pass Program that provides admission to U.S. citizens over 62 years of age to FS, National Park Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Services sites that charge entrance or standard amenity fees.

VIII. Analysis and Conclusion

Twenty-eight federal agencies reported on their steps taken in FY 2018 to implement the Age Act. This section of the report examines the data to evaluate the overall implementation of the Age Act government-wide.

There was no advancement in the area of regulation development, and four of the 28 agencies have not published final Age Act regulations; however, these four remaining agencies currently have regulations under development. Consistent with its responsibility to coordinate the federal government's efforts to comply with the Age Act, HHS worked and will continue to work with agencies to review their draft regulations and provide technical assistance.

With respect to complaint activity, the federal government received 23 fewer age discrimination complaints in FY 2018 than in FY 2017 (which had a higher number than previous fiscal years). Ten agencies reported working on age discrimination complaint cases, with eight of them reporting receiving new complaints in FY 2018. The agencies vary greatly in their complaint receipts. More than half of the federal agencies received no age discrimination complaints at all. Five of the eight agencies that reported receiving new complaints in FY 2018 received thirty or fewer complaints. As in prior years, ED continued to receive the great majority (69%) of age discrimination complaints, followed by HHS (14%) and USDA (7%).

The most frequently cited issues in age discrimination complaints involved denial of benefits or services by a program receiving FFA (80%).

In terms of resolution of Age Act complaints, ten federal agencies reported that they resolved age discrimination complaints in FY 2018, for a total of 1,024 case resolutions (higher than the 894 complaints resolved in FY 2017), with 847 (83%) resolved through administrative closure. Of the other complaint resolutions, 142 were resolved based on insufficient evidence of a violation, and 27 were resolved based on an agreement to undertake corrective action or other change without a specific finding of a violation. Eight were resolved in FY 2018 with a violation Letter of Findings, as opposed to four such violations found in FY 2017.

Six of the eight (75%) agencies that received new age discrimination complaints in FY 2018 used FMCS to mediate the complaints. This is an increase from 67% in FY 2017, 58% in FY 2014, 66% in FY 2013, and 43% in FY 2012. Most of the complaints that were not referred to FMCS had either been referred in a previous year, were not yet triaged, or were closed administratively. The increase in referrals to FMCS may be partially due to FMCS's work, in collaboration with HHS, to promote its services through educational work. FMCS developed new, simpler forms for an agency to use to request mediation, sent these forms to the federal agencies, and spoke at conferences to help agencies expedite their submission of complaints to FMCS. In addition, the success rate for mediation increased in FY 2018 to 23% of the cases, while only 17% were successfully mediated in FY 2017, and prior to FY 2017, the percentages were considerably lower.

The number of compliance reviews was only slightly higher in FY 2018 than in FY 2017, but much lower than in the years preceding FY 2017. The FY 2018 caseload included 449 new reviews and one carry-over compliance review, a dramatic reduction from the thousands in the fiscal years prior to FY 2017. The reduction came from the decreased number of compliance reviews by HHS and USDA, which had always conducted the greatest number of such reviews. In particular, the reduction resulted from HHS's termination of its traditional pre-award program (2,500 to 3,100 reviews a year) and the migration of that program to a more streamlined attestation and technical assistance process.

All 28 federal agencies (more than in previous years, except for FY 2017, when all 28 agencies also reported activities in these areas) reported conducting activities in the areas of technical assistance and outreach, staff training, and other activities in FY 2018. This higher number than in previous fiscal years is a general indication that the federal government is strengthening efforts to ensure compliance with the Age Act. In addition, many of the outreach and training activities have become yearly events, assuring that such activities in support of the Age Act will continue in the future.

Twenty-four of the 28 federal agencies reported that they provided technical assistance and/or outreach to recipients and beneficiaries in FY 2018. The technical assistance often was included as part of an agency's compliance review program, or was provided upon a recipient's request. The agencies reported that they engaged in outreach and information dissemination both to help members of the public understand their rights under the Age Act, and to help recipients of FFA understand their obligations under the Age Act. The outreach activities included conferences, workshops, training sessions, outreach presentations, online training courses, and distribution of brochures, pamphlets, and posters to both the general public and recipients. Almost all agencies reported having websites with information on civil rights laws and regulations, including the Age Act.

Seventeen federal agencies reported that they provided staff training on the Age Act in FY 2018, through a variety of settings, including online training modules, live presentations, meetings, and tutorials. Most reported training new employees and other staff on a regular basis on compliance issues, including the Age Act. In addition, many reported updating their training modules and other materials on a regular basis. These 17 agencies also include those with the heaviest

complaint and compliance review workload, thus assuring that staff training overall reached the great majority of staff engaged in enforcement activity.

Nineteen agencies reported conducting other activities in FY 2018 to increase compliance with the Age Act. These activities included requiring recipients of FFA to sign Assurances of Compliance stating that they will comply with civil rights laws (including the Age Act), enhancing compliance review programs, providing posters, webinars, and on-site visits to improve compliance with the Age Act, and enhancing training and outreach strategies to create awareness of age discrimination issues. In addition, a few agencies (NEA, NEH, DOT, and USDA) reported on ways to enhance the participation of individuals in certain age ranges (in particular, senior citizens) that may be underrepresented in the agencies' programs. Such activities, while not required by the Age Act, serve to open up opportunities that otherwise may be limited to these individuals, thus enhancing access for individuals of all ages. These programmatic initiatives complement implementation of the Age Act.

Going forward, HHS OCR will continue the following activities to promote enforcement of the Age Act:

- Continue to review draft agency-specific Age Act regulations and assist agencies that have not yet developed their Age Act regulations in writing and issuing their regulations;
- Urge all agencies to disseminate information on the Age Act to the public and recipients;
- Continue to share information and resources among the 28 federal funding agencies and Departments to promote more effective enforcement of the Age Act by the federal government; and
- Continue to work with FMCS to coordinate and improve the efficiency of the mediation process.

Appendix A:
List of Abbreviations and Acronyms

Federal Agencies

BBG	Broadcasting Board of Governors (now USAGM/BBG, see below)
CNCS	Corporation for National and Community Service
DOC	Department of Commerce
DHS	Department of Homeland Security
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of the Interior
DOJ	Department of Justice
DOL	Department of Labor
DOS	Department of State
DOT	Department of Transportation
ED	Department of Education
EPA	Environmental Protection Agency
GSA	General Services Administration
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
IMLS	Institute of Museum and Library Services
NASA	National Aeronautics and Space Administration
NCUA	National Credit Union Administration
NEA	National Endowment for the Arts
NEH	National Endowment for the Humanities

NRC	Nuclear Regulatory Commission
NSF	National Science Foundation
SBA	Small Business Administration
TVA	Tennessee Valley Authority
USAID	United States Agency for International Development
USDA	United States Department of Agriculture
USAGM/BBG	United States Agency for Global Media/Broadcasting Board of Governors
VA	Department of Veterans Affairs

Miscellaneous Acronyms and Abbreviations

Age Act	The Age Discrimination Act of 1975
C.F.R.	Code of Federal Regulations
DR	Departmental Regulation
EEO	Equal Employment Opportunity
EO	Equal Opportunity
FFA	Federal Financial Assistance
Fed. Reg.	Federal Register
FY	Fiscal Year
P.L.	Public Law
U.S.C.	United States Code

Appendix B: **Status of Agencies' Regulations**

BBG — On October 1, 2018, BBG changed its name to the U.S. Agency for Global Media/Broadcasting Board of Governors (USAGM/BBG). Prior to this name change and prior to its merger with the DOS on October 1, 1999, BBG issued proposed regulations jointly with DOS and USAID on January 8, 1980, implementing the Age Act. These regulations were published in the Federal Register in January 1980 and became final on September 23, 1980. They were amended on August 26, 2003 (68 Fed. Reg. 51360).

CNCS — The development of a regulation to implement the Age Act was on hold due to the proposed elimination in the Administration's FY 2018 budget request. However, CNCS is currently assessing whether to combine its civil rights regulations for federally assisted and conducted programs, including age discrimination regulations, into one comprehensive regulation. Once a determination has been made, CNCS will revise the regulations accordingly, with the goal of completion in mid FY 2019. Once a final decision has been made, CNCS will proceed with the rulemaking drafting process for the regulations. These new procedures will apply to processing complaints received under the Age Act as well as other civil rights statutes.

DOC — DOC's regulation implementing the Age Act was published at 15 C.F.R. Part 20, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance." The regulation was published in the Federal Register on August 13, 1986. In June 2009, DOC's OCR issued Departmental Administrative Order (DAO) 201-7, Nondiscrimination in Federally Assisted and Conducted Programs. This was the first update to the DAO in 43 years.

DOD — DOD is currently developing a regulation implementing the Age Act and anticipates its publication in FY 2020. The publication date was pushed back from FY 2019 to FY 2020 due to a DOD-wide freeze on developing additional regulations, which affected the approach to this policy.

DOE — DOE published its original implementing regulation, 10 C.F.R. 1040, Subpart E, on February 27, 1985. On August 26, 2003, DOE was one of 22 agencies that amended and re-published its regulation to conform to the decision in Cureton v. NCAA, 198 F.3d 107 (3rd Cir. 1999). *See* 68 Fed. Reg. 51348. The regulations are entitled "Non-discrimination on the Basis of Age—Age Discrimination Act of 1975."

DHS — DHS follows the HHS regulation at 45 C.F.R. Part 90, which states government-wide rules for the implementation of the Age Act. The Federal Emergency Management Agency (FEMA) has a regulation implementing the Age Act. It was signed by the Director of FEMA and forwarded to the Federal Register for publication in January 1988. In 1989, FEMA received HHS approval of the revised final rule. It was published at 55 Fed. Reg. 23078 on June 6, 1990, as amended at 68 FR 51380, August 26, 2003, and is codified at 44 C.F.R Part 7.

DOI — DOI published its final rule implementing the provisions of the Age Act in the Federal Register on January 25, 1989 (54 Fed. Reg. 3596, January 25, 1989). The rule effectuates the

requirements of the Act in all programs and activities that receive FFA from DOI. The rule is codified at 43 C.F.R. 17, Subpart C.

DOJ — DOJ’s implementing regulation for the Age Act was published on February 11, 1994, and is codified at 28 C.F.R. pt. 42, subpart I (2017). The statutory provision authorizing the regulation is 42 U.S.C. 6103(a)(4). DOJ issued the regulation on February 11, 1994, and revised the heading for Subpart I on August 26, 2003.

DOL — DOL published its final rule implementing the Age Act in the Federal Register on April 2, 2004. The regulations were effective May 3, 2004 and are codified at 29 C.F.R. Part 35.

DOS — The DOS regulations implementing the Age Act can be found at 22 C.F.R Part 143, and were published, April 22, 1980.

DOT — The Office of the Secretary of Transportation (OST) heads DOT, a decentralized Agency comprised of Departmental offices, the Office of the Inspector General, and nine operating administrations (OAs). These OAs are: Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Maritime Administration (MARAD), National Highway Traffic Safety Administration (NHTSA), Pipeline and Hazardous Materials Safety Administration (PHMSA), and St. Lawrence Seaway Development Corporation (SLSDC).

DOT does not currently have an implementing regulation, but it has employed processes throughout the OAs to carry out the intent of the statute. For example, DOT’s implementing regulations for Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, require all recipients of Federal financial assistance to sign an assurance that they will conduct all activities in compliance with Title VI and its non-discrimination provisions. 49 C.F.R. § 21.7. Appendix E of this assurance is required to be included in all sub-contracts awarded by DOT recipients, and explicitly cites the Age Act as a non-discrimination provision binding the sub-recipient.

In addition, FAA’s Order 1400.11, titled “Nondiscrimination in Federally-Assisted Programs at the FAA,” cites Title VI and the Age Act in the opening paragraph of its cover letter and declares that the Order will set forth the operating procedures for the implementation and enforcement of these authorities. Under Chapter 4, “Recipient Obligations,” all FAA recipients are required to comply with the Age Act through an assurance included in FAA’s Airport Sponsor grant assurances.

PHMSA’s External Civil Rights Program Guidelines for Grant Recipients covers compliance with civil rights responsibilities, including the Age Act. The Guidelines provide information that recipients can use to create a Civil Rights Program Plan in order to ensure compliance with the Age Act and other non-discrimination authorities. It provides sample notifications to the public of their rights, and sample complaint forms for recipients to adopt as part of their complaint processing program.

FMCSA requires applicants for funding to submit a Title VI Program Assurance, which includes the Age Act as an authority, along with a FMCSA Title VI Program Compliance Plan. This Plan is reviewed by FMCSA's Office of Civil Rights. Age is included in all protected group recitations throughout the elements of the Plan (i.e., Assurance, Notification to Beneficiaries/Participants, and Complaint Disposition Process).

FTA administers its own requirement prohibiting age discrimination. FTA is required to ensure nondiscrimination on the basis of age in any project, program, or activity funded by the agency. 49 U.S.C. §5332. The prohibition against age discrimination is incorporated into every grant and cooperative agreement, and is a condition of compliance by the grant recipient. Each year, FTA recipients sign a "Master Agreement" certifying that they will comply with all FTA requirements. That agreement contains a specific section titled "Nondiscrimination on the Basis of Age."

ED — ED's regulation implementing the Age Act, 34 C.F.R. Part 110, was published on July 27, 1993. The effective date of implementation was August 26, 1993. The regulation was amended most recently through notice in the Federal Register on November 13, 2000, effective December 13, 2000. ED's regulation prohibiting age discrimination applies to all recipients, including elementary and secondary schools, trade schools, colleges, universities, and state vocational rehabilitation agencies. (It does not cover age discrimination in employment.) The regulation describes the standards for determining age discrimination, the responsibilities of recipients, and the procedures for enforcing the statute and regulation.

EPA — EPA's regulations implementing the Age Act were published on June 4, 2010, in the Federal Register as a final rule at Volume 75, Number 107. *See* <https://www.gpo.gov/fdsys/pkg/FR-2010-06-04/pdf/2010-13470.pdf>; *see also* 40 C.F.R. §§7.140 et seq, at <https://www.gpo.gov/fdsys/pkg/CFR-2014-title40-vol1/pdf/CFR-2014-title40-vol1-part7.pdf>).

GSA — GSA published its implementing regulation, "Discrimination Prohibited on the Basis of Age," on June 4, 1985, located at 41 C.F.R. 101-8.7.

HHS — On December 28, 1982, HHS published its final regulation (45 C.F.R. Part 91) implementing the Age Act in the Federal Register. The regulation was effective on January 27, 1983.

HUD — HUD's regulation implementing the Age Act was published in the Federal Register on December 17, 1986. The regulation, entitled "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 24 C.F.R. Part 146, became effective on April 10, 1987. Additionally, HUD's Age Act policy is incorporated into its EEO Policy signed by Secretary Carson on July 26, 2017.

IMLS — The IMLS regulations implementing the Age Act can be found at 45 C.F.R. 1180.44.

NASA — The NASA regulation implementing the Age Act was published as a final rule at 50 Fed. Reg. 13311-13315 on April 4, 1985, and is codified at 14 C.F.R. Part 1252.

NCUA — NCUA has been working with HHS and DOJ to develop regulations to implement the Age Act. NCUA received approval for the proposed regulations from HHS on July 3, 2010, but is still waiting for DOJ's and the EEOC's final comments or concurrence.

NEA — NEA's regulations implementing the Age Act can be found at 45 C.F.R. Part 1156.

NEH — NEH published its finalized Age Act regulations in the Federal Register on May 9, 2014, 79 Fed. Reg. 26631. The regulations took effect on June 9, 2014. NEH's Age Act regulations are codified at 45 C.F.R. § 1172. HHS reviewed and made comments on the draft regulations.

NRC — The NRC's regulation implementing the Age Act can be found at 10 C.F.R. Part 4, "Nondiscrimination in Federally Assisted Programs or Activities Receiving Federal Financial Assistance from the Commission," Subpart C, "Regulations Implementing the Age Discrimination Act of 1975, as Amended." This regulation is available for public access on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part004>.

NSF — NSF's regulations under the Age Act were published in the Federal Register on December 21, 1984 (Vol. 49, No. 247). NSF's regulations that implement the Age Act are found at 45 C.F.R. 617.

SBA — SBA's Age Act regulation is located in 13 C.F.R. Part 117 – "Nondiscrimination in Federal Assisted Programs of SBA Effectuation of the Age Discrimination Act of 1975, As Amended."

TVA — TVA published its final regulation implementing the Age Act on August 11, 1981, in 46 Fed. Reg. 30811. TVA's regulations are codified at 18 C.F.R. Part 1309.

USAID — USAID regulations implementing the Age Act were codified and published at 22 C.F.R. 218 on Sept. 23, 1980.

USDA — The USDA Age Act regulation, 7 CFR Part 15c, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the U.S. Department of Agriculture," was finalized and published on January 1, 2016. The regulation may be found at <https://www.govinfo.gov/app/details/CFR-2016-title7-vol1/CFR-2016-title7-vol1-part15c>. The regulation prohibits discrimination on the basis of age in programs and activities receiving FFA from USDA. All USDA agencies are required to adhere to the provisions set forth in the regulation and related guidance on nondiscrimination on the basis of age.

VA — VA's regulation to implement the Age Act is contained at 38 C.F.R. Part 18, Subpart E. The State Veterans Home (Construction) Program age discrimination guidelines are codified at 38 C.F.R. Part 43, and cross-referenced in Part 59. The State Veterans Homes (Per Diem) Program age discrimination guidelines are finalized at 38 C.F.R. Parts 51, 52, and 58. The NCA follows the guidance in Title 38 to implement the Age Act, and the State Cemetery Grants Program age discrimination guidelines are codified at 38 C.F.R. Part 43.

Appendix C: Complaint Activity

Of the 28 federal agencies, ten agencies reported conducting complaint investigations. Eight of those agencies reported receiving new Age Act complaints in FY 2018 and nine reported carrying over complaints from the previous year. The reported complaint activity is as follows:

DOJ — DOJ received eight new age complaints in FY 2018 and carried in six from FY 2017. Three were closed with a no violation finding, and six were closed administratively, with five remaining open at the end of FY 2018. There were no *prima facie* cases of age discrimination.

DOL — DOL received 16 new complaints in FY 2018 and carried over 34, for a total workload of 50 complaints. During FY 2018, the Civil Rights Center's (CRC) Office of External Enforcement (OEE) resolved 30 of those complaint investigations. Fifteen of the complaints were resolved administratively, 14 of the complaints were resolved without a finding of violation, and one was resolved with a settlement agreement. The settlement agreement required the agency to provide the complainant with services, to revise its policies, and to provide copies to CRC/OEE for review. The 15 complaints investigated generally involved the selection for, or termination from, the nation's system of American Job Centers, State workforce investment/workforce development agencies, and the Senior Community Service Employment Program (SCSEP).⁸

DOS — DOS's Office of Civil Rights is responsible for ensuring that recipients of FFA do not discriminate on the basis of age in their programs and activities, pursuant to the Age Act. A significant portion of the DOS recipients are education-related organizations, which are also recipients of FFA from ED. Per an agreement among DOS, ED, and DOJ, reached in 1990, ED was delegated the responsibility of processing complaints against DOS education-related recipients (*see* 55 Fed. Reg. 21217 (1990)). Data pertaining to complaints brought against DOS recipients were provided by ED OCR. There have been no significant changes or trends in the age complaint data reported by ED.

DOS received 8 new complaints alleging age discrimination in FY 2018, with six complaints carried over from FY 2017, for a total caseload of 14 complaints. There was no pattern or practice of age discrimination evidenced in the complaint investigations. Seven complaints were closed, one of them based on insufficient evidence of a violation and six administratively. Seven cases were still pending at the end of FY 2018.

The most frequent issue investigated in the Age Act complaints was the denial of admission to an education program.

⁸ CRC is responsible for enforcing Section 188 of both WIOA, codified at 29 U.S.C. § 3248, and WIA, formerly codified at 29 U.S.C. § 2938. These statutory sections are or were applicable to a broad range of recipients of Federal financial assistance; like the Age Act, they bar age-based discrimination. Unlike the Age Act, however, WIOA/WIA Section 188 prohibit such discrimination in the context of employment as well as in other contexts. For consistency with the Age Act, this report includes CRC's activities to enforce the general age-related provisions of WIOA/WIA Section 188, but does not address CRC's activities related to age-based discrimination in employment.

DOT — DOT has received very few Age Act complaints since the Act became law in 1975. DOT's most recent Age Act complaint was received in FY 2016; there were no new Age Act complaints in FY 2017 or FY 2018. The one carry-over complaint was closed on April 30, 2018. The complainant alleged that a recently constructed toll road did not address the senior citizen community's requests for toll free access to local roads. The complainant received monetary compensation for the use of the toll road from a non-federal agency, after which the case was closed. Mediation of the matter by FCMS was unsuccessful.

ED — During FY 2018, ED received 592 complaints that included allegations of age discrimination, and carried over 267 complaints from FY 2017, for a total caseload of 859 complaints. Out of these 859 complaints, 685 were resolved in FY 2018. Of the closed complaints, 624 were resolved through administrative closures/dismissals, and seven were Early Complaint Resolutions (ECRs), complaints resolved and closed by OCR when the complainant and the recipient in each case voluntarily reached an agreement between the parties.

Of the remaining closures, 43 complaints were resolved with a no violation finding, three were closed based on an agreement to implement corrective action, and eight were closed based on a specific finding of a violation, issuance of a Letter of Finding, and agreement to take corrective action.

There were 174 Age Act cases pending at the end of FY 2018. The most frequently cited issues in age discrimination complaint resolutions involving students or other program participants or beneficiaries in FY 2018, were "Discrimination prohibited," "Employment issue – no jurisdiction," "Retaliation," "Unspecified Education-Related Service Issue" and "Admissions."

HHS — HHS' OCR received 122 new complaints alleging age discrimination by FFA recipients in FY 2018. HHS OCR's workload in FY 2018 also included 104 age discrimination complaints carried over from previous years, for a total workload of 226 complaints.

In the past, general denial of services and discrimination in services performed by health care professionals were by far the most frequent allegations (approximately 75%). In FY 2018, only 33% of the complaints involved general denial of services and discrimination in services performed. Forty-three percent involved denial of medication and/or denial of services (or rate changes) under Medicare or under other health insurers. Approximately eight percent involved discrimination in child welfare programs and services (e.g., adoptions, foster care and custody), which represents a lower percentage than last year but higher than in years before 2017. The other 15% involved a variety of allegations, including issues related to licensure and employment, admittance to doctoral and medical programs, and denials of opportunities to live in the least restrictive environment (home setting instead of a nursing home).

Some of the changes in the types of complaints received in FY 2018 may be in response to the final rule implementing Section 1557 of the Affordable Care Act (ACA). Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. As a result of the Section 1557 regulation, insurance companies that

participate in the ACA state-based Marketplaces or Federally-assisted Marketplaces are now considered covered entities with regard to the Age Act and must comply with the Age Act.

Increases in the number of complaints

The table below reflects the number of age discrimination complaints received by HHS OCR in FY 2018. The number of complaint receipts in FY 2018 is considerably higher than in preceding fiscal years. (Note: there was no Age Act report filed in fiscal years 2015 and 2016.) This increase may also be in response to the final rule implementing Section 1557. As noted above, Section 1557 incorporates the provisions in the implementing regulation for the Age Act.

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2017	FY 2018
Complaints Received	51	67	53	48	75	122

HHS OCR resolved 184 age discrimination complaints in FY 2018. Fifteen cases were closed based on insufficient evidence of a violation, ten complaints were closed with corrective action achieved, and 159 complaints were closed administratively. There were no findings of a violation with issuance of a Letter of Findings (in keeping with previous years). Forty-two cases were pending at the end of FY 2018.

HUD — HUD carried over 21 Age Act complaints related to EEO from FY 2017, and received 30 new complaints in FY 2018, for a total workload of 51 complaints. Thirty-five of those complaints were resolved. Thirty-one were resolved based on insufficient evidence of a violation; two were resolved based on an agreement to implement corrective action; and two were closed administratively. There were 16 Age Act cases pending at the end of FY 2018. The most frequent issues investigated in Age Act complaints were harassment (non-sexual) and age in EEO complaints. In addition, HUD received two new external civil rights complaints and carried over one from the previous year. One was closed with no violation and two were closed administratively. The issues involved refusal to rent or conditions of rental based on age (youth or elderly).

IMLS — IMLS had one carry-over Age Act complaint in FY 2018 that originated in FY 2015. The complaint stems from an applicant seeking a career at the agency. IMLS issued a Final Order and Final Agency Action on June 20, 2018, adopting the determinations of the EEOC Administrative Judge that the complainant failed to establish a *prima facie* case of discrimination and retaliation. The matter is now closed. IMLS received no new complaints in FY 2018.

USDA — During FY 2018, USDA received 62 age discrimination complaints in its federally assisted programs. In addition, there were 38 age complaints carried over from FY 2017, resulting in a total of 100 age complaints for FY 2018. Of the total age complaints received in FY 2018, approximately 46 complaints (74%) originated from FNS programs. Specifically:

- Forty-three (94%) were filed against the Supplemental Nutrition Assistance Program (SNAP), which serves on average 20 million households each month;
- One (2%) was filed against the Child and Adult Care Food Program, which serves over 4.4 million participants a year;
- One (2%) was filed against the Summer Food Service Program, which serves over 2.6 million meals a year; and
- One (2%) was filed against the Emergency Food Assistance Program. Approximately \$987.7 was spent on this FNS Program in FY 2018.

The FNS complaint activity for FY 2018 focused on issues related to poor customer service and a lack of understanding of program rules and eligibility requirements regarding recipient income and resources. Nevertheless, USDA has been mitigating these issues through civil rights training for employees and technical assistance to recipients.

Additionally, a Memorandum of Understanding (MOU) established in 2014 between USDA and FNS remains in effect through November 2019. The MOU delegates the authority to FNS to review, investigate, and adjudicate FNS program discrimination complaints (including Age Act complaints). It also standardizes the process by which FNS processes age complaints at the national and state levels.

In FY 2018, USDA resolved 62 (62%) of the 100 total age complaint workload. Of the 62 complaints resolved, 33 (53%) were resolved based on insufficient evidence of a violation, and 29 (47%) were resolved administratively (including, for example, closure by withdrawal and failure to pursue).

VA — The VA received eight new complaints in FY 2018, and had no carry-over complaints. Of those eight, the VA closed seven, with one complaint still pending at the end of FY 2018. Of the seven complaints that were closed, one was resolved based on insufficient evidence of a violation, three were resolved based on agreement to implement corrective action, and three were closed administratively. The most frequent issues included allegations of unfair or poor treatment and denial of healthcare and services.

Appendix D: **Mediation**

Of the eight federal agencies that received new complaints in FY 2018, six agencies (DOL, DOS, ED, HHS, HUD, and USDA) used FMCS for mediation, while two agencies (DOJ and VA) did not.

DOJ — DOJ did not send any Age Act complaints to FMCS for mediation because nine cases were resolved administratively and one case is still open, pending the outcome of related litigation.

DOL — During FY 2018, DOL referred 10 complaints alleging age discrimination to FMCS for mediation, pursuant to regulatory requirements. DOL did not refer 40 pre-investigative cases received in FY 2018 for mediation during that fiscal year for the following reasons:

- 24 complaints had been referred in a previous year;
- 15 complaints were resolved through administrative closure procedures; and
- One case was still being processed at the end of FY 2018.

In addition, two of the 10 complaints that DOL referred to FMCS during FY 2018 were resolved through mediation, while four complaints referred during FY 2018 were not resolved. Four complaints referred during FY 2018 were still pending mediation as of the close of the fiscal year.

DOS — In FY 2018, DOS forwarded four of its complaints to FMCS for mediation. One of these four complaints resulted in findings of “No Violation” after being returned to DOS from FMCS. Three of the four complaints are pending; one is still with FMCS, while the two other pending complaints were returned to DOS from FMCS. A total of six complaints were not referred to FMCS (in FY 2018 or in a prior fiscal year). One of these six complaints is pending. The remaining five of these six complaints were dismissed, and two of these five dismissed complaints were referred to EEOC.

ED — ED referred a total of 134 cases to FMCS in FY 2018. Of these 134 cases, 31 were successfully mediated and 103 were not successfully mediated.

A total of 725 Age Act complaints were not referred to FMCS by ED in FY 2018 because:

- 75 were referred to other agencies in FY 2018;
- 148 had been referred to FMCS in a previous fiscal year; and
- 502 were retained in ED’s OCR for investigation.

HHS — In FY 2018, of the total workload of 226 complaints (carry-in and new), HHS OCR referred 38 complaints to FMCS. Of the remaining 188 complaints, 163 were not referred to FMCS in FY 2018 because the complaint investigations were closed administratively; 21 had been referred in a previous year; and four were not referred for other reasons.

Of the 38 complaints referred to FMCS in FY 2018, ten (26%) were successfully mediated, while 28 (74%) were not. They were subsequently returned to OCR for further processing.

HUD — HUD referred 55 complaints to FMCS; none were successful in achieving resolution of the complaint. In addition, HUD referred one external civil rights complaint to FMCS, but mediation was unsuccessful. For the other external civil rights complaint, HUD tried internal conciliation.

USDA — USDA referred 48 age discrimination complaints in FY 2018 to FMCS, of which 25 (52%) were successfully mediated and 23 (48%) were sent back to USDA because the mediation did not result in an agreement. Although FNS utilized the FMCS for dispute resolution assistance, other USDA agencies used internal resolution methods, such as: (a) discussions with complainants; (b) referral to State Offices for mediation; and (c) distribution of a list of mediation services to parties requesting mediation.

VA — VA used its own internal mediation services.

Appendix E: **Compliance Reviews**

Of the 28 federal agencies, seven reported conducting compliance reviews in FY 2018. Six of the seven agencies initiated new compliance reviews, and one reported working only on carry-over compliance reviews.

CNCS — CNCS completed 287 compliance monitoring reviews in FY2018. These reviews include assessing Age Act requirements, but they are not limited to age discrimination. Rather, CNCS staff persons conduct periodic comprehensive reviews of staff, member and grantee program operations to ensure full compliance with all civil rights laws and regulations governing CNCS programs. These reviews are performed with the aid of a review document developed specifically for each CNCS program. No issues involving alleged/actual age discrimination were detected in these reviews.

DOJ — While DOJ did not open any new compliance reviews under the Age Act in FY 2018, it administratively closed one carry-over preliminary compliance review in FY 2018 that was docketed in FY 2016, but never formally initiated.

DOT — Although no compliance reviews focusing solely on the Age Act were conducted by Operating Administrations (OA) at DOT in FY 2018, the Age Act was incorporated into the Title VI Program through Title VI program reviews. In addition, the Age Act was incorporated through the Americans with Disabilities Act (ADA) Program reviews.

Every three years, FTA reviews its recipients' programs to ensure their compliance with statutory and administrative requirements. Among the 20 program areas that FTA examines during these "Triennial Reviews" is how the recipient administers its half fare program for senior transit riders. By law, transit agencies must offer a non-peak fare for seniors that are not more than half the base fare charged during the peak travel hours. 49 U.S.C. § 5307(c)(1)(D)(i). In addition, at the pre-award stage, the prohibition against age discrimination is incorporated into every FTA grant and must be agreed to as a condition of compliance.

FAA conducted 33 compliance reviews, mini-reviews, or self-assessments at airports focusing on compliance with non-discrimination authorities, which includes the Age Act along with Title VI and the ADA. FHWA incorporated compliance with the Age Act into its Title VI Program.

GSA — Each year, GSA OCR conducts periodic compliance reviews of state agencies that administer the Federal Surplus Personal Property Donation Program. In FY 2018, GSA reviewed the Oregon, North Dakota, South Dakota, Wisconsin, Utah, New Hampshire, New Mexico, Kansas, Tennessee, Idaho, and Oklahoma State Agencies for Surplus Property, which included a review to ensure that methods of administration were in place to ensure compliance with applicable civil rights laws, including the Age Act. No patterns or practices were identified regarding age discrimination, and all eleven compliance reviews were closed in FY 2018 with a no violation finding. The GSA OCR also conducted civil rights training of staff at the state agencies reviewed in FY 2018, which included coverage of the Age Act.

NRC — The Office of Small Business and Civil Rights (SBCR) in the NRC initiated 51 new compliance reviews during FY 2018. There were no carry-over compliance reviews. All 51 compliance reviews were resolved based on administrative issues. There were no compliance reviews pending at the end of FY 2018.

There were no issues, patterns, or practices of age discrimination found in the compliance reviews. During the pre-award compliance review process, SBCR civil rights specialists engage recipient staff in an interactive exchange related to (1) applicable nondiscrimination regulations, (2) identification of compliance requirements, (3) achievement of voluntary compliance, and (4) information, data, and document collections.

The civil rights specialist or other SBCR staff member provides the level of outreach, assistance, and training needed to help the designated recipient complete NRC Form 781, SBCR Compliance Review, Parts A, B, and C. NRC Form 781 identifies and requires the recipient to consent to a broad range of assurances, recordkeeping, and ongoing compliance and reporting requirements. The recipient is also required to complete the Office of Management and Budget-approved Standard Form, Assurances-Non-Construction Programs (OMB Standard Form 424B (Rev. 7-97)).

In the post-award compliance review phase, the NRC staff and recipient employees have continuous interaction related to (1) conducting agency desk audits, onsite audits, or both, (2) monitoring compliance, (3) coordinating efforts, (4) training, and (5) requesting and providing technical assistance. There are also discussions focused on the recipient's feedback and notification of complaints and lawsuits.

In addition to the above activities, the NRC includes discrimination provisions in the terms and conditions of an agency's grant award document. Based on informal feedback from stakeholders and the NRC's internal reviews, the aforementioned combinational approach is a significant contributing factor in the agency's reduction in age-related complaints.

TVA — TVA conducted 17 compliance reviews in FY 2018, all resolved without a violation finding. TVA's compliance reviews are performed only to provide assistance, and are limited to a desk-level review and assessment of any complaints to TVA concerning the award or self-reported violations by the applicant. Under TVA's approach, any reported violations are assessed based on the size and scope of the applicant's operations, the nature of the violation or alleged violation, and the number of years that have elapsed since the violation or alleged violation occurred. During the conduct of compliance reviews, TVA did not discover any pattern or practice of age discrimination in any program receiving financial assistance from TVA.

USDA — In FY 2018, USDA agencies conducted 50 new compliance reviews of federally assisted programs. USDA utilized several methods to carry out compliance reviews, such as interviews, docket reviews, and site visits to assess activities and to review the effectiveness of the enforcement of civil rights laws, and Departmental and agency regulations. Generally, the assessment of recipients' compliance with the Age Act was one component of their compliance with several other federal civil rights laws. Based on the compliance reviews conducted, no

pattern, practice, or finding of any age-related discrimination was found. The table below illustrates USDA’s compliance review activity. Of the 50 compliance reviews, 26 were closed in FY 2018, and 24 were still pending at the end of FY 2018. Of the 26 complaints that were closed, 17 were closed based on insufficient evidence of a violation, and 9 were resolved based on an agreement to implement corrective action, without a finding of a violation.

Compliance Review Activity

Agency	Carried Over From FY 2017	Initiated in FY 2018	Total Workload in FY 2018	Total Reviews Closed in FY 2018	Reviews Pending at the End of FY 2018
USDA Total	0	50	50	26	24

Appendix F: **Significant Cases**

Of the 28 federal agencies, four agencies (DOL, DOT, ED, and HHS) reported significant cases, as follows:

DOL — Although DOL’s CRC issued no findings of discrimination in an age-based case during FY 2018, DOL settled a complaint after investigation because of Respondent’s failure to retain documentation that would have allowed CRC to determine whether such discrimination had taken place. The settlement agreement required the Respondent to (a) provide the Complainant with individualized remedies, including services and benefits upon request; (b) revise its record retention policies; and (c) provide copies of the revised policies to CRC for review.

DOT — DOT’s FHWA received one complaint in FY 2016, which has carried over to FY 2018 and was officially closed on April 30, 2018. The complainant alleged that a recently constructed toll road did not address the senior citizen community’s concerns and requests for toll free access to local roads. The complainant received monetary compensation for the use of the toll road from a non-federal agency.

ED — ED OCR provided examples of eight cases that proved to be significant due to the novelty of the issues alleged. Four of these cases are described below.

- In one complaint, ED OCR investigated whether a postsecondary educational institution discriminated against the complainant, on the basis of age, when the educational institution failed to provide the complainant with a copy of his/her academic transcript. The refusal was accompanied by an age discrimination-related comment. During the course of ED OCR’s investigation, the educational institution sent a letter to the complainant stating that it was giving the complainant a copy of his/her transcript. ED OCR considered this matter resolved.
- In another complaint, ED OCR investigated whether a postsecondary educational institution discriminated against the complainant, on the basis of age, when the educational institution denied the complainant’s request to reside in campus housing. ED OCR’s investigation concluded with the educational institution implementing a resolution agreement. The educational institution agreed to revise its housing policy to ensure that it fully complies with the Age Act, to train administrators and staff involved in campus housing assignments, and to provide information to ED OCR in accordance with the monitoring provisions of the agreements. ED OCR concluded its monitoring of the resolution agreement and closed the complaint.
- In a third complaint, ED OCR investigated whether a postsecondary educational institution discriminated against the complainant, on the basis of age, when the educational institution allegedly refused to admit the student into its police academy programs solely because of the complainant’s age. The educational institution implemented a resolution agreement that resolved the allegation. Under the terms of the resolution agreement, the age restriction was removed from the admission application,

and the revised application was published, after ED OCR's review, on the educational institution's website. In light of the signed agreement, ED OCR found the complaint to be resolved.

- In a fourth complaint, ED's OCR investigated whether a postsecondary institution discriminated against the complainant, on the bases of age and race, by subjecting the complainant to harassment by one of his/her professors. The educational institution implemented a resolution agreement in which the educational institution agreed to reimburse the complainant all tuition and fees paid to the institution in association with enrollment and participation in the course taught by the professor accused of harassment. In addition, the educational institution agreed to initiate annual mandatory training of all new faculty and staff on the prohibition against discrimination and harassment, as detailed in the Age Act (and another civil rights authority).

HHS — In FY 2018, ten cases were resolved with an agreement to implement corrective action or other change. One case was of particular interest, as follows:

The complainant alleged that a county child welfare agency discriminated against her based on her age (67 years old) and her mobility impairment when it determined that she was not an appropriate caregiver for her great-grandchild who had been placed in the agency's custody. HHS OCR's investigation found there were legitimate, non-discriminatory reasons for the complainant to be denied custody of her great-grandchild. However, HHS OCR's investigation revealed that the agency did not have nondiscrimination policies or procedures for its child welfare programs. Further, the agency did not have an adequate grievance process to address discrimination complaints or a process for providing reasonable modifications and auxiliary aids in a timely manner for its clients with disabilities. HHS OCR provided technical assistance, and the agency completed a series of voluntary compliance actions that included developing and implementing nondiscrimination, grievance, and reasonable modification policies and procedures.

Appendix G: **Technical Assistance and Outreach, Staff Training and Other Activities**

All 28 federal agencies responded to at least one of the categories listed in the Appendix G title. Of those 28 agencies, 24 reported technical assistance and outreach activities, 17 reported staff training, and 19 reported other Age Act related activities.

1. Technical Assistance and Outreach to FFA Recipients, Beneficiaries, and the Public (As indicated above, 24 agencies reported conducting technical assistance and outreach activities in FY 2018.)

BBG — Now known as USAGM/BBG, this agency provides technical and educational assistance to enhance the recipient's awareness and knowledge of its non-discrimination obligations (including obligations under the Age Act).

DOC — DOC provides information about civil rights, including the Age Act, to recipients and the public on the DOC OCR website.

DOE — DOE has a website that references enforcement of the Age Act. The link is: <https://www.energy.gov/diversity/services/civil-rights>.

DHS — The public-facing website for DHS Office for Civil Rights and Civil Liberties (CRCL) includes information for recipients on their civil rights obligations, including the obligation to comply with the Age Act. In FY 2018, the DHS CRCL implemented the DHS Civil Rights Evaluation Tool for recipients of Department financial assistance. The Tool assists DHS grantees and other recipients in understanding and meeting their existing requirements under civil rights laws and regulations, including the Age Act. As part of the biennial tool submission process, recipients provide to DHS information on civil rights complaints (including complaints that allege violations of the Age Act), and policies and procedures to fulfill various civil rights obligations. DHS will provide technical assistance to recipients as needed to ensure nondiscrimination in the Department's federally assisted programs and activities.

DOI — DOI covers the requirements of the Age Act during technical assistance activities. The focus is on an enforcement and compliance perspective for DOI's bureaus, offices, and recipients of FFA. All bureaus offer technical assistance regarding the Age Act to staff, recipients, and the public upon request. Additionally, the Departmental Office of Civil Rights, Bureau of Land Management, Fish and Wildlife Service, Bureau of Reclamation, U.S. Geological Survey, National Park Service, Office of Surface Mining, Bureau of Safety and Energy Enforcement, Bureau of Ocean Energy Management, Office of Insular Affairs, and Bureau of Indian Affairs provide, internally and externally, the Department's and/or its bureau-specific notification of non-discrimination policies through websites, brochures, posters, technical assistance and training, and compliance reviews. Such notification includes information about the Age Act.

DOJ — DOJ's general training programs for recipients of DOJ funding include information on age discrimination in the delivery of service. As an example, the Age Act is covered in the

training video entitled “What is the Office for Civil Rights and What Laws Does It Enforce?” on the Office of Justice Programs (OJP) OCR’s website.

DOJ OJP/OCR maintains a website at www.ojp.gov/ocr, which contains information on all civil rights laws connected to FFA, including the Age Act, and the procedures for filing a complaint. The OJP/OCR has created a series of instructional web videos informing grantees of their civil rights obligations, including the prohibition against discrimination based on age, and hosted them at: <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>. It also conducted several in-person training presentations to grantee and sub grantee agencies regarding their civil rights obligations, including their obligations under the Age Act.

DOL — In December 2016, DOL’s CRC issued a Final Rule containing new regulations to implement the nondiscrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination and requires equal opportunity on various bases (including age) at the state and local levels of the nation’s workforce development system. These regulations, *inter alia*, require states to establish the new position of State-level Equal Opportunity Officer. As a result, in FY 2018, CRC developed and presented a National Training Conference for state-level Equal Opportunity Officers, designed to provide newly appointed EO Officers with training and teaching materials to enable them to both fulfill their own responsibilities and train lower-level EO Officers in their States. The conference featured appearances by Secretary of Labor R. Alexander Acosta and Assistant Deputy Attorney General Alberto Ruisanchez, among others. Information regarding age discrimination was conveyed during the conference, as were the requirements to collect and analyze data and investigate and address potential discrimination disclosed by the data analysis, including discrimination based on age. Approximately 50 people attended the training conference.

In addition, information concerning age discrimination was included in a training developed by CRC and presented electronically to staff and contractors of the Job Corps program. The training was taken by 11,230 people.

Also, DOL’s CRC made several presentations to the EO Committee of the National Association of State Workforce Agencies (NASWA), which includes the EO Officers of multiple states and territories across the nation. At least two of those presentations included information about new regulatory provisions requiring State Governors to submit Non-Discrimination Plans (NDPs), describing how the state will ensure nondiscrimination and equal opportunity in its workforce development system. Although the requirement to submit such plans (previously known as Methods of Administration, or MOAs) is not itself new, the nondiscrimination regulations impose additional requirements, including requirements related to age discrimination. For example, under the WIA nondiscrimination regulations, state MOAs were only required to describe specific procedures for ensuring nondiscrimination on the basis of disability. Under the WIOA regulations, by contrast, each state NDP must describe the procedures the state has put in place for ensuring nondiscrimination on all prohibited bases, including age. In addition, the new regulations carry forward previously-existing requirements to collect and analyze demographic data, explicitly including data and analyses concerning age, about program applicants, registrants, and participants, as well as employees and applicants for employment. *See* 29 CFR 38.41(b)(2), 38.51(b)(1). Although the requirement to collect such data and conduct such

analyses was also included in the regulations implementing the nondiscrimination provisions of WIA, those regulations required that the monitoring and analyses be conducted only “periodically”; under the WIOA nondiscrimination regulations, by contrast, the monitoring and analyses must be conducted annually. *Compare* 29 CFR 37.54(d)(2)(ii) *with* 29 CFR 38.51(b).

Where one or more of these analyses identifies any statistically significant differences in participation by members of a protected group (explicitly including age-based differences), the Governor is required to investigate, in order to determine whether those differences were caused by systemic discrimination. 29 CFR 38.51(b)(2). Where systemic discrimination is identified, the Governor must either obtain prompt corrective action, or, as necessary, apply appropriate sanctions. 29 CFR 38.54(b)(2)(vii). The Governor must also provide CRC with copies of reports of monitoring reviews and of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions. 29 CFR 38.54(b)(2)(viii)(E). Each of the presentations CRC made to the NASWA Committee was attended by approximately 30 to 35 people.

DOT — DOT’s OAs have taken several proactive steps to provide technical assistance and outreach on the Age Act and other non-discrimination authorities that could impact the ability of persons within distinct age ranges to access transportation systems.

FMCSA provided a technical assistance presentation to new applicants and to other applicants upon request during FY 2018. The presentation included the Age Act under the Assurance section of the presentation. The FHWA also includes Age Act requirements in its Title VI training to recipients. In FY 2018, Title VI trainings, including information on the Age Act requirements, were given by FHWA at a national training conference of state civil rights specialists.

The NHTSA provided funding, through the California Office of Traffic Safety, for the University of California at Berkeley Safe Transportation Research and Education Center, which, in FY 2018, published *Safe Routes for Older Adults*, a guide that provides communities with background information on walking and bicycling safety for older adults, and tools to make transportation in California communities age-friendly for all.

The FAA’s 9th Annual FAA National Civil Rights Training Conference recognized airports with awards for their commitment to eliminate discrimination. This includes assuring that airports are accessible for all travelers, including persons with disabilities and older adults. This focus on awarding accessibility encourages airports to proactively eliminate discrimination and make airports more accessible for all travelers, including older travelers.

The FTA conducted numerous trainings and participated in conferences where ensuring compliance with nondiscrimination authorities, including the Age Act, were emphasized to recipients. FTA routinely provides technical assistance on the half fare program for older adults and persons with disabilities to both transit agencies and public transit customers.

ED — ED OCR staff conducted several introductory or general presentations on its enforcement authorities in FY 2018, including the Age Act. Audiences included administrators and staff from various types of ED grantees, parent groups and advocacy organizations, and attorneys and law students.

EPA — EPA's External Civil Rights Compliance Office (ECRCO) is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin, disability, sex, and age in programs or activities that receive FFA from the EPA. ECRCO provided training and technical assistance on all nondiscrimination authorities it enforces, including age, to state and local agencies and tribal governments in FY 2018. EPA also maintains an Internet website at: <http://www.epa.gov/civilrights/>. The website includes all available information about the civil rights laws administered by EPA, including the Age Act.

GSA — GSA OCR provides technical assistance upon request or when civil rights compliance concerns are identified. GSA OCR also provides outreach and training on civil rights issues (including issues regarding compliance with the Age Act).

HHS — In general, HHS OCR offers technical assistance on compliance with civil rights laws, including the Age Act, to all Medicare Part A applicants, who are required to submit their signed Assurance of Compliance forms through OCR's web portal. The technical assistance is provided through HHS OCR's website, fact sheets, telephone calls, and e-mails between HHS staff and healthcare providers. HHS OCR also provides technical assistance to other healthcare and social service recipients, through mail service, letters and phone calls.

HHS OCR maintains a website with Age Act information at www.hhs.gov/ocr/age.html. An HHS OCR fact sheet regarding the Age Act is available on the website and in hard copy in the following languages: English, Spanish, Korean, Tagalog, Vietnamese, Chinese, Polish, and Russian.

Often, HHS OCR presents at conferences and workshops, and it distributes copies of fact sheets to attendees who represent recipients of FFA from HHS, other agencies within HHS, or members of the general public. In FY 2018, OCR gave 31 presentations. The majority of these presentations and outreach activities included information on many civil rights statutes and regulations, including the Age Act, with audiences ranging from 50 to 200 people. A presentation conducted by OCR's regional office in Atlanta included a technical assistance and outreach session on civil rights, including the Age Act, for supervisors and attorneys for an entire State agency. In addition, OCR's regional office in New York City provided three presentations that focused on the elderly community. The regional staff held sessions with long-term care community coalitions, to discuss the intersection of civil rights with issues of nursing home life, restrictions on getting released for family events, and denial of services, among other issues.

Six of the 31 outreach presentations in FY 2018 provided educational outreach to medical and pharmacy students regarding compliance with civil rights authorities, including information about the Age Act, and about the resolution of common civil rights issues in order to eliminate health disparities in medical settings. These presentations are part of the Medical School

Curriculum initiative, which HHS OCR and the Association of American Medical Colleges launched in 2007.

HUD — HUD provides a toll-free number for the public and recipients of FFA to answer numerous Fair Housing questions, including questions on the Age Act. In addition, HUD’s website (www.HUD.gov) provides ample information to the public on the Age Act, including a description of the Age Act, prohibited discrimination, and the process for filing a complaint based on age. During education and outreach events, the Age Act regulations are addressed, along with other authorities that fall within HUD’s responsibility.

IMLS — IMLS is a micro agency, which provides regular technical assistance to its grant recipients. Through the IMLS website, grantees are provided resources that fully address civil rights compliance requirements for all applicants and recipients of FFA. IMLS continues to provide outreach and distribute relevant information to grantees and the general public about current civil rights laws and compliance requirements as it pertains to pre- and post-award funding. IMLS Extranet site is specifically designed for IMLS grantees to access updated IMLS grant award requirements, policies, and compliance information to include applicable civil rights laws (i.e., Age Act).

NASA — In FY 2018, NASA reinforced its commitment to nondiscrimination, diversity, and inclusion in several ways. In September 2018, the Administrator issued a policy letter, sent to all grantees, informing them that that as part of NASA’s vision, all programs receiving NASA funding must comply with civil rights regulations (including the Age Act). Earlier, in November 2017, NASA issued a new policy directive advancing diversity and inclusion and civil rights compliance in all STEM-related activities in which NASA and its grantees engage.

NEA — The NEA’s Office of Accessibility conducted a series of presentations and workshops for NEA grantees and service organizations, as well as organizations dedicated to the aging field. The purpose of these sessions was to educate participants about making high-quality arts programs available to older adults and people with disabilities. Specifically, the Accessibility Office:

- Presented a keynote on creative aging and a workshop on accessibility at the Creative Age Conference in St. George, UT, October 12, 2017. The keynote addressed overcoming ageism and stigma through the arts, and the work that the NEA has done to support the field through research, policy, and practice. The accessibility workshop covered how creative aging programs can ensure accessibility for participants.
- Organized and presented a workshop on disability and accessibility for people with disabilities and older adults for the Grant makers in the Arts conference in Detroit, MI, on October 31, 2017.
- Delivered a panel presentation on creative aging at the Healthy Aging Summit, sponsored by the Administration for Community Living in HHS, on July 17, 2018.

The panel covered best practices in creative aging and NEA's support how the NEA has supported the field through research, policy, and practice.

- Organized and presented a pre-conference peer session for state arts agency and regional arts organization accessibility coordinators at the John F. Kennedy Center for the Performing Art's Leadership Exchange on Art and Disability Conference in Atlanta, GA on August 8, 2018. The working meeting included presentations on cultural accessibility and creative aging initiatives.

NEH — An independent federal agency and one of the largest funders of humanities programs in the U.S., NEH requires its funding recipients to execute their projects in accordance with applicable anti-discrimination laws, including the Age Act, and provides information about these laws on its website. See, e.g., <https://www.neh.gov/about/human-resources/civil-rights-and-disability-related-resources>.

Also, NEH encourages grant applicants to consider architectural accessibility when developing their projects. In conjunction with the NEA, NEH published *Design for Accessibility: A Cultural Administrator's Handbook*, which contains guidance on accessibility issues, including how to both create new programs and open existing programs so as to be inclusive of persons with disabilities and elderly persons. *Design for Accessibility* is available electronically to grantees and the public at: <https://www.arts.gov/sites/default/files/Design-for-Accessibility.pdf>.

Finally, NEH encourages cultural institutions receiving FFA to waive entrance fees for the general public on certain days, an effort that helps make programming more accessible. In addition, virtually all museums that receive NEH support offer lower admission fees for seniors.

NRC — NRC provided assistance to applicants and recipients to help them understand applicable federal civil rights statutes and responded to information requests during the pre- and post-award stages of the grants process. NRC also posted information and educational materials for stakeholders on its website, which address requirements under the Age Act.

The NRC provided the following assistance to the public, recipients, and other stakeholders during FY 2018:

- Informed applicants and recipients verbally and in writing of their obligations to comply with NRC regulations and Federal civil rights statutes, including the Age Act, as a condition of receiving NRC funding;
- Informed stakeholders (including approximately 150 prospective recipients) of the NRC's pre- and post-award compliance review programs and processes, and made stakeholders aware of applicable nondiscrimination regulations, regulatory requirements, and how to achieve voluntary compliance;
- Worked collaboratively with designated recipient personnel to resolve issues related to compliance with applicable nondiscrimination regulations;

- Conducted pre- and post-award civil rights compliance interviews (which included assessment of compliance with the Age Act); and
- Provided continuous assistance that included: overviews of applicable nondiscrimination regulations (including the Age Act regulations) and mandates for federal agencies to conduct pre-award compliance reviews, notification of the pre-award process, and monitoring of recipient compliance with anti-discrimination regulations and laws.

The NRC makes available to the public, recipients, and other stakeholders the following materials, which address requirements under the Age Act:

- Agency Web site, which includes information and materials related to NRC' civil rights programs, several forms (including a complaint form), and the assurance of compliance form;
- Document Publications, including a compliance review guide;
- Federal Funding Opportunity Announcement, including information on conduct of pre- and post-award compliance reviews; and
- Grant Award Document.

NSF — NSF's staff presented Age Act information to representatives of recipient institutions at NSF Grants Conferences, professional scientific organizations conferences, Program Directorate Advisory Committee meetings and various NSF outreach initiatives regarding compliance issues. ODI also revised content on its [webpage](#), which details the Age Act.

SBA — SBA provided technical assistance to its Women's Business Center Directors, District Directors, and District office Technical Representatives on agency practices and procedures regarding the Age Act.

TVA — TVA informed recipients of their obligations under the Age Act and provided recipients with information regarding equal opportunity requirements as well as a description of the specific responsibilities of recipients. This information, also posted on TVA's website, identifies the Age Act and enforcing statutes and explains how to report any alleged act of discrimination.

USAID — Each potential recipient of FFA from USAID must provide, prior to receiving an award, a signed assurance that its organization will comply with the Age Act. Within the assurance document is information notifying recipients where to find the Agency's codified regulations.

USDA — USDA provided the following technical assistance to its recipients during FY 2018, in compliance with the Age Act:

- All FNS Civil Rights staff (both Headquarters and regional) implemented the requirements of the Age Act through trainings, meetings, conferences, and on-site reviews;

- FNS Civil Rights staff conducted training on the Age Act and other laws at the Food Distribution Program Regional Conferences in Nevada, Florida, Texas, and New Mexico; FSIS participated in meetings and provided guidelines and training to State Meat and Poultry Inspection Program employees, addressing nondiscrimination policies, public notification efforts, and civil rights requirements, including the prohibition against discrimination based on age;
- FSIS Civil Rights staff instituted a new program entitled, “At Least Equal To.” The program is intended to guide the State Meat and Poultry Inspection Program employees through the agency’s website to address Civil Rights requirements, including prohibiting discrimination based on age;
- Natural Resources Conservation Service (NRCS) provides all recipients assistance and services regarding civil rights and equal opportunity, including the Age Act. All recipients must establish, maintain, and carry out an effective policies, practices, and procedures in accordance with civil rights laws and regulations; and
- NIFA provided its annual civil rights and equal opportunity training, including the Age Act, for approximately 585 grantees and internal staff.

USDA provided educational information to its recipients in FY 2018 in accordance with the Age Act. Various outreach and distribution methods included:

- Conducting nine comprehensive compliance reviews of State Meat and Poultry Inspection Programs assessing eight major components, one of which was compliance with the Age Act of 1975. The assessment encompassed FSIS staff looking at the outreach efforts of State Meat and Poultry Inspection Programs to determine if they were reaching populations with a broad age range, especially individuals age 40 and over;
- Providing brochures, posters, and guidelines to recipients on agency program delivery responsibilities and prohibition of discrimination by age and other protected bases;
- Encouraging all recipients and sub-recipients to utilize the revised nondiscrimination statement (including nondiscrimination on the basis of age) on their printed informational materials and sources, including websites used by USDA, State and local agencies, or beneficiaries, to inform the public about USDA programs incorporating the revised USDA Nondiscrimination Statement; and
- Assuring that non-discrimination requirements were on publications and materials with the Age Act and other related regulations.

VA — The VA has three administrations that administer FFA to programs and activities: Veterans Health Administration (VHA), Veterans Benefits Administration (VBA), and the National Cemetery Administration (NCA).

The VHA provided training to managers, supervisors, and employees on various topics, including the harassment prevention and the external civil rights discrimination complaint process. In total, 924 VHA employees participated. The training exercises included information regarding the identification of, and effective strategies in dealing with, discrimination and harassment claims based on age. Additional technical assistance was provided on an as needed basis.

The VBA provides guidance and information to individuals who allege age-based discrimination by proprietary schools that receive FFA. These individuals may file a complaint of discrimination with the Office of Resolution Management (ORM) VBA EEO Liaison Office, and a copy is sent to the VBA Regional Office Director. The notice describes what actions will be taken to investigate the complaint. The report of investigation is forwarded to the ORM VBA EEO Liaison Office for review and issuance of a final decision. It provides a formal written notification to complainants, recipients of federal financial assistance, and appropriate VBA Regional Office personnel. The notification contains the results of the investigation, the decision on the complaint, and recommendations for remedial actions, if appropriate.

The VBA Poster, “Equal Opportunity is the Law,” provides information regarding individuals’ rights under the Age Act and other equal opportunity laws to applicants, participants, and other interested persons in proprietary educational institutions. Recipient schools are required to display the posting in a conspicuous location that is accessible to all students and school employees.

2. Staff Training

(Seventeen agencies reported that they conducted training for their staff on the Age Act in FY 2018.)

BBG — Now known as USAGM/BBG, this agency’s staff is trained annually on civil rights and equal employment opportunity matters, affording them the expertise needed to operate in accordance with current federal regulations (including the Age Act regulations).

Also, the Agency’s Office of Civil Rights provides a variety of training opportunities, including online and onsite sessions, which are made available to Agency employees as well as “outside individuals,” such as contractors and grantees. As a result, USAGM/BBG anticipates minimizing and/or eliminating age discrimination in programs and activities.

DOI — DOI OCR hosts a monthly meeting of Bureau representatives to discuss issues relating to the various civil rights requirements and provides a training session related to compliance activities. During FY 2018, the OCR and Bureau civil rights staffs participated in various conferences and training programs with federal, state, and local personnel where the requirements of the various civil rights regulations and statutes, including the Age Act, were presented and discussed. During FY 2018, DOI conducted one training event that included the Age Act.

DOL — DOL staff attended the National Training Conference for State EO Officers. The training included civil rights regulations (including the Age Act regulations).

DOS — DOS OCR provides training to all new employees regarding equal employment opportunity enforcement and civil rights authorities, including training on the Age Act.

DOT — Members of the FHWA staff attended a national training conference of state civil rights specialists, which included the Age Act. In addition, Title VI training, including training on the Age Act, was held for 27 FHWA civil rights staff in Washington, D.C. The Maritime Administration conducted training for internal stakeholders that covered the Age Act, along with other non-discrimination authorities.

ED — ED OCR trains most new staff on its enforcement authorities and on the ED OCR Case Processing Manual. This training includes a discussion of the administration of Age Act compliance reviews and the processing of discrimination complaints filed under the Age Act.

GSA — GSA OCR staff is committed to professional development through ongoing review of case law and decisions regarding applicable federal civil rights laws, regulations, and guidance, which includes Age Act compliance.

HHS — HHS OCR informs its new staff of Age Act requirements and enforcement procedures as part of its orientation training. HHS OCR also periodically provides staff with refresher training about the procedural requirements of the Age Act.

HUD — The Age Act is covered in the bi-annual No FEAR training, which includes a segment on harassment based on age. HUD staff members are provided with periodic training, which includes the Age Act regulations, along with the other HUD authorities.

IMLS — In FY 2018, IMLS ensured that supervisors and IMLS staff employees received annual training on their roles and responsibilities with regard to ensuring that its grant programs and work environments remain free from all forms of discrimination, including age discrimination. In addition, IMLS provided updated civil rights training to program staff employees in preparation for bi-annual Chief Officers' meetings and other grantee workshops.

NEA — In FY 2018, NEA provided training for new employees, which explains agency civil rights enforcement responsibilities, including the Age Act. NEA OCR continues to work closely with other federal agencies in complying with federal regulations governing accessibility issues for older adults.

NEH — NEH provides its staff with electronic resources to aid awareness and understanding of federal civil rights laws, including the Age Act. It also provides accessibility guidance and grant-related civil rights materials. NEH's Office of the General Counsel provides information and feedback on age discrimination issues as requested.

NRC — The NRC Senior Civil Rights Specialist provided technical assistance training to the internal offices on NRC’s pre-and post-award compliance review processes. The training provided a greater understanding of the agency’s role for targeted areas undergoing a routine audit of the compliance with federal regulations (including the Age Act regulations), and agency policies, procedures, and practices.

The NRC also provides its employees with management directives (MDs) and accompanying handbooks that cover EO and fair practice laws, and civil rights, including the Age Act. The following documents serve as the agency’s internal controls and guidance instruments:

- MD 9.24, “Organization and Functions, Office of Small Business and Civil Rights”;
- MD 10.164, “Outreach and Compliance Coordination Program”; and
- MD 11.6, “Financial Assistance Program.”

NSF — NSF provides training opportunities for staff through its training unit “LearnNSF,” including a course on the Age Act and other applicable nondiscrimination laws and regulations.

NSF staff presented Age Act information at internal Program Directorate Town Hall Meetings, Program Management Seminars for Program Directors. New NSF staff members participate in the New Employees Orientation, which provides an overview on civil rights, including the Age Act. In its continuous efforts to educate employees, ODI addressed age discrimination in its NoFEAR training module and New Employee Orientation in FY 2018. NSF also conducts EEO and diversity training for managers and supervisors, which covers age discrimination and other related topics. NSF estimates that several hundred employees were trained. The Age Act was referenced in several employee training sessions on civil rights regulations related to federally assisted programs. Again, NSF estimates that several hundred individuals were trained.

TVA — TVA’s Office of the General Counsel conducted informal training on the Age Act requirements with regard to federal financial assistance. The training was given to TVA employees involved in the federal assistance award process.

USDA — USDA continued to emphasize and perform the following staff training on the Age Act:

- Annual civil rights training was taken by managers, supervisors, and employees on their responsibilities pertaining to all civil rights laws, including the Age Act. The training was geared toward fostering a better understanding of how the Age Act and other civil rights laws are applicable when interacting with internal staff and customers;
- Rural Development (RD) is preparing a training work plan to be implemented on a quarterly and annual basis for employees and recipients, which will include the Age Act;
- FS National Accessibility Program Manager presented 19 accessibility webinars on recreation, engineering, and civil rights (including the Age Act) to over 1,900 employees;
- FS National and Regional Equal Opportunity Specialists conducted training on requirements in federally assisted programs to agency Civil Rights Service Centers

Staffs, in which the Age Act was covered. There were approximately 600 agency staff members in attendance with a total of 15 sessions;

- FNS provided training to agency program staff, as age is an applicable basis to all nutrition assistance programs. The Age Act is covered during training for Child Nutrition, National School Lunch, SNAP, Women, Infants and Children (WIC) and WIC Indian Tribal Organization State agencies and U.S. Territories in the Pacific and the U.S. Virgin Islands. The training included scenarios to illustrate age related issues;
- Foreign Agriculture Service continued to provide civil rights trainings to its approximately 895 employees. The training included a section on discrimination based on age;
- FSIS staff completed training (webinars and external conferences) and conducted training, educating employees on civil rights laws and protections, internal regulations and policies, including the Age Act;
- NRCS provided, “Civil Rights and Program Delivery” to address civil rights laws, including the Age Act, on a quarterly basis to all agency employees and State conservation offices. The course objective was designed to raise awareness for field staff on age discrimination and on methods to diversify boards and councils, and add the participation of non-traditional and underserved populations in NRCS programs; and

VA — During FY 2018, VHA provided training on the External Civil Rights Discrimination Complaints Program to over 100 VHA staff members. The Civil Rights Discrimination Compliance Program includes guidance on the Age Act regulations.

VBA’s Education Contract Compliance Specialists examined the proprietary schools’ policy statements and reviewed the schools’ student catalogs to ensure that Age Act compliance information was contained within those documents. Furthermore, the VBA Liaison Office provided technical assistance to 63 Education Service staff regarding the provisions of the Age Act.

NCA conducted quarterly training on the Age Act at the supervisory training to over 60 supervisors. The training included non-discrimination policies and practices towards their customers and visitors.

3. Other Activities

(Nineteen agencies reported other Age Act-related activities.)

CNCS — CNCS State Office employees conduct periodic comprehensive reviews of local project operations. This procedure is performed with the aid of a review document developed specifically for each of the programs. The process examines specific aspects of project operations to ascertain whether program requirements are being followed, with special attention given to the prohibition on age discrimination.

DOC — DOC OCR cooperates with Bureau Grants Officers to oversee compliance with the Age Act and the Commerce regulation. Information is available to recipients and the public on OCR’s web site. In addition, Commerce requires grant applicants to use the applicable Standard Form 424B or 424D, which provides the Department with certifications that applicants will comply with the Age Act. The Commerce Financial Assistance Standard Terms and Conditions, which are incorporated into each financial assistance award, contain a stipulation that recipients will comply with the Act and the Commerce regulation enforcing the Age Act.

DOE — DOE routinely performs pre-award reviews of its recipients to ensure compliance with civil rights statutes and regulations, including the Age Act. As a precondition for FFA, recipients are required to self-certify that they are in compliance with the Age Act by submitting an Assurance of Compliance, DOE Form 1600.5, and answer DOE’s Civil Rights Questionnaire to report allegations of discrimination made against them.

DHS — DHS advises its recipients of the Age Act and their compliance obligations through the DHS Standard Terms and Conditions (<https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>), which is referenced in the Notice of Funding Opportunity Announcement and included with the Notice of Award for DHS grants and other types of financial assistance.

DOI — DOI OCR and Departmental Bureaus distribute posters, brochures, and other program-specific materials relating to non-discrimination policies and requirements of the various authorities, including the Age Act, to staff, recipients, and the public.

DOJ — All DOJ funding components include an Assurance of Nondiscrimination in their grant award packages, and recipients must sign it in order to receive FFA. The Assurance outlines the applicable laws, including the Age Act, with which the funding recipients must comply.

DOL — During FY 2018, DOL received an initial eight Nondiscrimination Plans to review for compliance with civil rights regulatory requirements. The civil rights requirements include those in the Age Act regulations.

DOS — To ensure that recipients comply with all relevant federal antidiscrimination (including discrimination on the basis of age) laws, DOS requires recipients to complete Standard Form 424B “Assurances – Non Construction Programs.”

DOT — In FY 2018, DOT OCR provided virtual and in-person civil rights training internally and externally to inform agency staff nationwide about their responsibilities for ensuring compliance under the Age Act, along with other non-discrimination authorities. In addition, many of the OAs developed or funded programs designed to enhance the participation of individuals in certain age ranges (such as older adults) that are otherwise underrepresented in transportation programming.

FHWA assisted the Washington State Department of Transportation and the Kentucky Transportation Cabinet on developing plans to mitigate the impact of tolling on low-income populations, including older populations; the plans involved finding low-cost commuting alternatives.

NHTSA's Older Driver Program represents a proactive step by DOT to educate the public on safety as it relates to older drivers. The Older Driver Program includes plans, toolkits, and trainings to assist law enforcement officers, medical professionals, and family members with helping to ensure the safety of older drivers on the road.

NHTSA and FHWA fund the Roadway Safety Foundation, a non-profit located in Washington, D.C., which runs the Clearinghouse for Older Road User Safety, providing resources pertaining to highway safety for aging drivers, passengers, pedestrians, and cyclists.

During FY 2018, FTA provided \$7.2 million in funding for a Pilot Program entitled "Rides to Wellness Demonstration and Innovative Coordinated Access in Mobility Grants" under the Fixing America's Surface Transportation Act. Funded projects included "Click to Wellness: Connecting Medical Appointment Scheduling to Public Transit" in Jacksonville, FL; "Integrating Medicaid Rides with Paratransit and Council on Aging Rides in North Central Massachusetts Region" in Fitchburg, MA; and "Allegany County Mobility Management Program Providing Coordinated Nonemergency Medical Transportation to the Transportation Disadvantaged" in Allegany County, MD.

In FY 2018, FTA also announced the availability of \$6.3 million for Access and Mobility Partnership grants for transit coordination projects that improve access to healthcare. That included more than \$2.4 million for research activities to support innovative strategies to provide effective and efficient public transportation services to seniors, individuals with disabilities, and low-income individuals.

GSA — GSA regularly distributes non-discrimination posters to recipients for prominent display at their place of operation. The posters contain information regarding the Age Act. In FY 2018, GSA OCR staff conducted webinars and on-site training regarding the civil rights responsibilities of the Oregon, North Dakota, South Dakota, Wisconsin, Utah, New Hampshire, New Mexico, Kansas, Tennessee, Idaho, North Carolina, and Oklahoma State Agencies for Surplus Property (SASP), including information regarding their responsibilities under the Age Act. No age discrimination concerns were identified as a result of the SASP reviews conducted during FY 2018.

HHS — HHS is responsible for coordinating the federal government's compliance efforts under the Age Act. Each year, OCR compiles the Annual Age Act Report on federal agencies' age discrimination activities. The Annual Age Act Report is a summary and analysis of the individual reports from federal Departments and agencies that have responsibilities under the Age Act. In this report, HHS evaluates the extent to which agencies have implemented the provisions of the Age Act.

HHS requires its recipients to sign and submit an Assurance of Compliance form to certify that they will comply with the applicable civil rights regulations, including the Age Act.

Because HHS is the lead agency for enforcement of the Age Act, HHS OCR also responds to questions from other federal Departments and agencies regarding the development of their

regulations, the implementation of their investigative and mediation processes, and the resolution of their challenging or novel complaints. In FY 2018, for example, HHS OCR provided the U.S. Forest Service with guidance on a complex case involving potential age restrictions for applicants seeking licensure for trips on a wildlife river.

HUD — Many education, outreach, and training activities that address HUD’s EEO and civil rights responsibilities include a segment on the Age Act.

IMLS — IMLS program officers answer grantee questions and provide updates on civil rights laws (including the Age Act) to their recipients of FFA. From time to time, the Office of the General Counsel briefs members of the museum and library fields about significant developments in the area of civil rights. In addition, all applicants for FFA from IMLS must certify that they will comply with the applicable nondiscrimination statutes. IMLS engages in desk audits of all grant applications to determine compliance with the Age Act.

NCUA — As a condition to participate in the Community Development Revolving Loan Fund program, NCUA requires its grantees to sign a certification form that includes an assurance that the applicant conducts its activities in compliance with civil rights laws, including the Age Act.

NEA — The NEA makes significant efforts to eliminate barriers that may impede the full participation of older individuals in arts activities. The agency’s Office of Accessibility serves as the advocacy and technical assistance arm of the NEA, and focuses on making the arts accessible to people with disabilities, older adults, veterans, and people in institutional settings. To help achieve the Endowment’s goal of increasing access to the arts for all Americans, NEA developed several cooperative efforts with NEH grantees, arts service organizations, private groups representing older Americans and people with disabilities, and appropriate federal agencies. The focus of these collaborative efforts is inclusion—opening up existing programs and reaching out to older citizens who would otherwise not have opportunities to be involved in the arts. To that end, the Office of Accessibility’s efforts expand implementation of the Age Act by increasing awareness and accessibility of older adults with limited hearing, eyesight, and mobility. The NEA also has sought to increase the development of the arts in health programs that include participation of older adults.

Beginning in 2011, the NEA convened a Federal Interagency Task Force on the Arts and Human Development to encourage more research on how the arts can help people reach their full potential at all stages of life. Task force members represent multiple units across the federal government, including HHS, the National Institutes of Health, NSF, and ED, among others. To date, the Task Force has met quarterly to share ideas and information about research gaps and opportunities for understanding the arts’ role in improving health and educational outcomes throughout the lifespan. Most recently, in August 2018, the NEA’s Office of Research and Analysis co-chaired a panel discussion entitled “Innovative Arts- and Media-Based Approaches in Promoting Health and Well-Being for Older Adults” at the American Psychological Association’s annual meeting. The panel featured the work of several NEA research grantees.

The NEA’s National Center for Creative Aging was awarded a cooperative agreement in May 2016 to develop a website to provide information and resources for the field of creative aging,

including informational pages for each state arts agency participating in the 3-year NEA-supported Community of Practice in Arts, Health, and Aging, which took place in 2014-16. The website was launched in January 2018. Additionally, the Office of Accessibility continues to update and expand the resource section of the Endowment's Website to include more accessibility resources, links, and articles (<http://arts.gov/artistic-fields/accessibility>).

NEH — NEH works to ensure that older Americans are included in its programs and activities. Foremost, NEH awards grants based solely on merit. Older scholars are eligible and encouraged to compete for NEH funding on the same basis as other similarly qualified applicants. Each year, NEH funds numerous projects that involve older individuals as primary investigators, project staff, or consultants. Often, scholars beyond the conventional retirement age are awarded NEH support to continue long-term, collaborative research projects they have directed and sustained for many years. In addition, older scholars are involved in many of the research and teaching programs that NEH supports, and many senior scholars serve as grant review panelists and specialist reviewers for NEH research and education programs.

Furthermore, NEH supports many projects that directly and indirectly benefit older Americans. NEH achieves its greatest impact among older Americans when they participate in reading and discussion programs, visit cultural institutions, attend public programs, view television productions, and listen to radio broadcasts made possible by NEH grants.

In FY 2018, more than 440 communities in 50 states, the District of Columbia, and the Northern Mariana Islands hosted NEH-funded reading and discussion programs in libraries and community centers. Additionally, NEH supported a number of projects in FY 2018 that dealt with age-related topics. These include: *Conversation Toward a Brighter Future*, a media project that engages high school students in digital storytelling to foster conversation within their communities about how to better communicate across generational divides; *Coney Island: Visions of an American Dreamland, 1861-2008*, a traveling exhibition that explores Coney Island as both a place and an idea, and how popular perceptions about this iconic attraction have changed through the generations; and *Born in Slavery, Aging in Modern America, 1900-1940*, a book research project that examines how former slaves and their freeborn contemporaries adjusted to the changes of a modernizing and industrializing America.

Finally, NEH's Office of Federal/State Partnership makes grants to humanities councils based in all fifty states, as well as the District of Columbia, and U.S. territories. Each year, the state humanities councils support a variety of museum exhibitions, library book programs, and educational campaigns that engage older Americans and give them the opportunity to pursue educational activities in their communities. The following is a sample of NEH-funded programs, specifically for and about older Americans, carried out by the state humanities councils during FY 2018:

- **Kentucky:** Kentucky Humanities Council runs *Kentucky Chautauqua* and a Speakers Bureau, which sends performers and lecturers to community organizations throughout the state. The Chautauqua performers deliver historically accurate dramatizations of Kentuckians who made valuable contributions. Most of the programs are geared toward

older audiences and many performances take place at senior living facilities across the state.

- **New Hampshire:** *New Hampshire Humanities' Humanities to Go* program enables nonprofit organizations and community groups to offer free, high-quality cultural programs to the senior citizens and other members of the public at minimal cost to the host.
- **Washington:** In communities throughout Washington State, Humanities Washington Speakers Bureau presenters give free public presentations on history, politics, music, philosophy, spiritual traditions, and everything in between. To reach as many Washingtonians as possible, with emphasis on reaching senior citizens, Humanities Washington partners with a wide range of organizations, including libraries, schools, museums, historical societies, retirement homes, community centers, and civic organizations.
- **West Virginia:** West Virginia Humanities' *History Alive* program features scholars from around the state who portray historical figures in presentations around the state at schools, parks, museums, historic properties, churches, and a variety of civic organizations including senior centers, senior clubs, retiree groups, and retirement communities.

NRC — During the pre-award compliance review process, which includes assessment of a recipient's compliance with the Age Act, NRC civil rights specialists engage recipient staff in an interactive exchange related to (1) applicable nondiscrimination regulations, (2) identification of compliance requirements, (3) achievement of voluntary compliance, and (4) information, data, and document collection. Civil rights specialists or other staff persons provide outreach, assistance, and training to help the designated recipient complete NRC Form 781, SBCR Compliance Review, Parts A, B, and C. NRC Form 781 identifies and requires the recipient to consent to a broad range of assurances (including the assurance to comply with the Age Act), recordkeeping, and ongoing compliance and reporting requirements.

USAID — USAID Ombudsman's Office continues to handle complaints from the public, and potential and existing recipients about USAID federal assistance processes. In addition, each potential recipient of FFA from USAID must provide, prior to receiving an award, a signed assurance that its organization will comply with the Age Act.

USDA — In FY 2018, USDA conducted the following additional efforts to reduce age discrimination:

- USDA continued to enforce the Age Act by conducting Civil Rights Impact Analyses on proposed rules, regulations, and products to ensure individuals or class(es) of individuals protected under the Age Act were not impacted by agency decisions;

- FSIS focused on civil rights activities internally for its employees and State Meat and Poultry Inspection Program employees geared towards its federally-assisted programs. The training included materials regarding age discrimination;
- FSIS oversaw civil rights self-assessments conducted by their 27 State Meat and Poultry Inspection Programs. The self-assessments were designed to assess the programs' nondiscrimination policy, public notification efforts, and the infrastructure and program accountability of their Civil Rights Programs. The civil rights programs include assessments for compliance with the Age Act, among other civil rights authorities.
- FS continued to be a sponsor (with other federal agencies) of the Interagency Senior Pass Program that provides admission to United States citizens over 62 years of age to FS, National Park Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service sites that charge entrance or standard amenity fees. Admission is provided for the pass holder accompanying passengers in private non-commercial vehicles, and the pass is valid for the pass holder's lifetime.