

146.39

Enforcement procedures.

(a) HUD may enforce the Act this regulation by:

(1) Termination of a recipient's financial assistance from HUD under the program or activity involved, if the recipient has violated the Act or this part. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an Administrative Law Judge. If the financial assistance consists of a Community Development Block Grant, the requirements of section 109(b) of the Housing and Community Development Act of 1974, 42 U.S.C. 5309, must also be satisfied before the termination of financial assistance. Cases settled in mediation or before hearing will not involve termination of a recipient's Federal financial assistance from HUD.

(2) Any other means authorized by law, including, but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or this part;

(ii) Use of any requirement of, or referral to, any Federal, State or local government agency that will have the effect of correcting a violation of the Act or this part.

(b) Whenever the Secretary determines that a State or unit of general local government which is a recipient of Federal financial assistance under Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5301-5317, has failed to comply with requirements of the Age Discrimination Act or this part with respect to a program or activity funded in whole or in part with such assistance, he or she shall notify the Governor of such State or the chief executive officer of such unit of general local government of the noncompliance and shall request the Governor or chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the Governor or chief executive officer fails or refuses to secure compliance, the Secretary is authorized to take the action specified in (a) of this section, exercise the powers and functions provided for in section 111(a) of the Housing and Community Act of 1974, 42 U.S.C. 5311(a), or take such other action as may be provided by law.

(c) HUD shall limit any termination under Sec. 146.35 to the particular recipient and particular program or activity HUD finds to be in violation of this part. HUD shall not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from HUD.

(d) HUD shall take no action under paragraph (a) of this section until:

(1) The Secretary has advised the recipient of its failure to comply with the Act or this part and has determined that voluntary compliance cannot be achieved.

(2) Thirty days have elapsed after the Secretary has submitted a written report of the circumstances and grounds of the action to the

committees of the Congress having legislative jurisdiction over the Federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.

(e) (1) The Secretary may defer the provision of new Federal financial assistance to a recipient when termination proceedings under this section are initiated.

(2) New financial assistance from HUD includes all assistance for which HUD requires an application, approval, or submissions under the Community Development Block Grant program including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New financial assistance from HUD does not include increases in funding as a result of changed computation for formula awards or assistance approved before the beginning of a hearing under this section.

(3) HUD shall not impose a deferral until the recipient has received a notice of an opportunity for a hearing under this section. HUD shall not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. HUD shall not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding that the recipient has violated that Act or this part.