

U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Washington, D. C. 20210



June 29, 1971

ADEA 202.6

This is in further reference to your letter of May 28, 1971, concerning the application of the Age Discrimination in Employment Act to age listings in notices of personnel available for employment that are sent out by employment agencies to prospective employers.

Section 4(e) of the Age Discrimination in Employment Act makes it unlawful for an employment agency to print or publish any notice or advertisement "relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on age." It is our opinion, therefore, that since personnel availability listings (1) are published, because they are made known presumably to a substantial number of employers; (2) relate to referral for employment, because they advertise the availability of applicants for such referral; and (3) contain a "specification" of age, it follows that such notices are subject to the prohibition of section 4(e), and are unlawful to the extent that they disclose the age of applicants for employment.

Sincerely,

/s/ Francis J. Costello

Assistant Administrator
Wage and Hour Division

WH-139

