

<p style="text-align: center;">Nutrition Services Department of State Health Services</p>

Effective November 1, 2008

Policy No. CR:05.0

Civil Rights Complaints

Purpose

To ensure that any individual who feels there was a violation of his/her civil rights for any reason based on race, color, national origin, age, sex or disability may file a complaint. The individual alleging discrimination shall have the right to file a complaint within 180 days of the alleged discriminatory action to the local or state agency, Food and Nutrition Service (FNS) Regional office, or the Secretary of Agriculture. The state agency (SA) shall forward the complaint to the United States Department of Agriculture (USDA). The SA shall investigate employment complaints alleging discrimination, unless the complainant alleges the employment situation impacts the service to applicants/participants. In such cases, USDA may jointly investigate with the SA or conduct a separate investigation.

Authority

FNS Instructions 113-2, rev.1; 7 CFR Parts 15, 15a, and 15b; 246.8, 246.21;
Title IX of the Education Amendments of 1972

Policy

The local agency (LA) shall immediately refer by phone and follow by written correspondence to the SA any complaint from an individual who feels or believes that his/her civil rights have been violated by an action which results in the individual's denial of participation, harassment, suspension or termination from the program or any complaint in regard to any action taken by the LA which the individual believes is discriminatory and a violation of his/her civil rights. The SA shall immediately refer in writing any such complaint, received either from the LA or directly from an individual, to the Regional Civil Rights Director for USDA's Southwest Region.

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For the purpose of this policy, civil rights shall encompass those rights protected by Title VI of The Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; 7 CFR Parts 15, 15a, 15b, The Age Discrimination Act of 1975; and the Americans with Disabilities Act of 1990 (ADA).

Definitions

Complainant: Any person or groups of persons that allege discrimination in the delivery of program benefits and services.

Discrimination: Any distinction of one person or a group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, national origin, age, sex, or disability.

Investigation: Formal gathering of facts/information by the Office of Minority Affairs (an organizational unit under the Secretary of Agriculture) which has the authority to develop and administer a comprehensive program to assure equal opportunity for all persons in all aspects of USDA programs under civil rights laws and regulations.

Procedures

- I. When the LA or SA receives a complaint from any individual alleging discrimination, the complainant shall be notified that all such complaints shall be reported immediately to USDA for investigation. The individual shall also be provided with the following addresses and phone numbers should they choose to report the complaint on their own.

Contact: Director, WIC Program
Department of State Health Services
P.O. Box 149347 Mail code 1933
Austin, Texas 78714-9317
Toll free at 1-800-942-3678
email: wicgeneral@dshs.state.tx.us

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and
Regional Civil Rights Director
USDA/Southwest Region
Food and Nutrition Service
1100 Commerce Street
Dallas, Texas 75242
(214) 290-9820

- II. Complaints may be presented either in written or oral form. If they are presented orally and the complainant declines to submit the allegations in written form, the person receiving the call shall write up the elements of the complaint by attempting to obtain as much of the following information as possible:
 - A. name, address, and telephone number of the complainant or other means of contacting the complainant;
 - B. the specific location where the alleged discrimination occurred and name of the entity delivering the service or benefit;
 - C. the nature of the incident or action that led the complainant to feel discrimination was a factor or an example of the method of administration that is alleged to have a discriminatory effect on the public or potential and actual participants;
 - D. the basis on which the complainant feels discrimination exists (race, color, national origin, age, sex, or disability);
 - E. the names, titles, and business addresses of persons who may have knowledge of the discriminatory action; and
 - F. the date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

- III. Complaints against a LA received by the SA shall not be reported to the LA per USDA instruction in order for USDA to determine whether or not an investigation is necessary.

- IV. The SA by their own initiative through on-site reviews shall ascertain whether any action by the LA is of a discriminatory nature which would

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- constitute a violation of the requirements of Title VI of the Civil Rights Act of 1964 and other authorities as outlined in the policy statement above and refer such information to USDA for investigation.
- V. Anonymous complaints shall be accepted and handled as any other complaint.
 - VI. Throughout this process, every effort shall be made to maintain the confidentiality of the individual making the civil rights complaint. The identity of every complainant shall be kept confidential, except to the extent necessary to carry out the purposes of an investigation, hearing, or judicial proceeding.

Guidelines

Some examples of discrimination include:

- I. exclusion of eligible persons from participation in the program on the basis of race, color, national origin, age, sex, or disability;
- II. inequitable allocation of food to eligible persons on the basis of race, color, national origin, age, sex, or disability;
- III. issuance of food instruments or delivery of foods in a place, time, or manner that results in, or has the effect of, denying or limiting the benefits on the basis of race, color, national origin, age, sex, or disability;
- IV. selection of LAs for participation in the program which has the effect of, or results in, limiting the availability of the program benefits or services on the basis of race, color, national origin, age, sex, or disability;
- V. failure to apply the same eligibility criteria to all potential eligibles seeking participation in the program;

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- VI. certification of potential eligibles as eligible to receive program benefits solely on the basis of race, color, national origin, age, sex, or disability; and

- VII. maintenance of a waiting list which makes distinctions on the basis of race, color, national origin, age, sex, or disability.