



June 9, 2022

**Food Assistance Transmittal Letter No. 429  
(Five-Year Review)**

**TO:** All Food Assistance Manual Holders

**FROM:** Matt Damschroder, Director

**SUBJECT:** Five-Year Review: nondiscrimination.

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend the rule; rescind the rule; or continue the rule without amendment.

The Office of Family Assistance (OFA) has completed a review of the following rule. This rule has been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The changes will become effective on 7/1/2022.

**Chapter 1000**

**5101:4-1-15 "Food assistance: nondiscrimination."**

This rule describes the process and procedures for county agencies to meet Federal nondiscrimination requirements. OFA amended this rule. Changes to the rule include:

- Language was added to paragraph (B) to clarify individuals may file discrimination complaints with United States Department of Agriculture (USDA) and/or Ohio Department of Job and Family Services (ODJFS);
- Paragraph (B)(1)(a) was updated with the website to directly obtain the USDA Program Disclination Complaint Form (AD-3027);
- Language from paragraph (B)(1)(b) was moved to (B)(1)(a) to combine information on how to access the USDA Program Disclination Complaint Form (AD-3027);

- Language was added to paragraph (B)(2) to clarify how to file a written complaint with ODJFS;
- Language was stricken from paragraph (C) to correctly identify the information needed to file a written complaint;
- Edits were made to Paragraph (E) to detail when an investigation will be conducted; and
- Minor grammatical and date changes for clarity.

5101:4-1-15

**Food assistance: nondiscrimination.**

(A) What is the nondiscrimination policy for the supplemental nutrition assistance program (SNAP)?

Discrimination in any aspect of program administration is prohibited by program regulations, the Food and Nutrition Act of 2008, the Age Discrimination Act of 1975 (PL 94-135), Title VI of the Civil Rights Act of 1964 (42 U. S. C. 2000d), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101).

Enforcement action may be brought under any applicable federal law. Title VI complaints shall be processed in accord with 7 C.F.R. Part 15 (5/2003), United States department of agriculture's (USDA) regulations on nondiscrimination.

County agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to:

- (1) The certification of assistance groups;
- (2) The issuance of benefits;
- (3) The conduct of fair hearings; or
- (4) The conduct of any other program service for reasons of race, color, national origin, sex, age, disability, religious creed, or political beliefs.

(B) What steps shall be followed ~~if~~when an individual ~~feels~~believes they were subjected to discrimination?

An individual who believes ~~he or she~~they ~~has~~have been subject to discrimination may file a written complaint with either the USDA and/or the Ohio department of job and family services (ODJFS), bureau of civil rights.

(1) To file a program complaint of discrimination with the USDA, an individual may:

- (a) Complete the USDA "Program Discrimination Complaint Form", (AD-3027) (1/19/12) found online at ~~http://www.asec.usda.gov/complaint\_filing\_cust.html~~https://www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf ~~and~~, at any USDA office; ~~or~~ or may be requested from the USDA by calling (866) 632-9992; or
- (b) Submit a written letter ~~or completed USDA "Program Discrimination Complaint Form" which may be requested from the USDA by calling~~

~~(866) 632-9992~~ that includes the information described in paragraph (C) of this rule. An individual may submit the letter or completed form to USDA by:

(i) Mail: "U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW Washington, D.C. 20250-9410"; or

(ii) Fax: (202) 690-7442; or

(iii) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

(2) ~~To~~ An individual may also file a written complaint with the Ohio department of job and family services ODJFS; . To file a written complaint, an individual may submit the JFS 02333, "Discrimination complaint" form or submit a written letter that includes the information described in paragraph (C) of this rule to "The Ohio Department of Job and Family Services, Bureau of Civil Rights, 30 East Broad Street, 37<sup>th</sup>30<sup>th</sup> Floor, Columbus, Ohio 43215- 3414."

(C) What needs to be included in a written complaint ~~to facilitate an investigation?~~

- (1) Name, address, telephone number, or other means of contacting the person alleging discrimination.
- (2) Location and name of the organization or office ~~which~~that is accused of discriminatory practices.
- (3) The nature of the incident or action of program administration that led the person to allege discrimination.
- (4) The reason for the alleged discrimination (age, race, color, sex, disability, religious creed, national origin, or political beliefs).
- (5) The names, titles (~~if~~when appropriate), and addresses of persons who may have knowledge of the alleged discriminatory acts.
- (6) The date or dates on which the alleged discrimination occurred.

(D) What shall happen ~~if~~when the individual is unable to put the complaint in writing?

When an individual makes allegations verbally and is unable or is reluctant to put the allegations in writing, the person to whom the allegations are made shall document the complaint in writing. Every effort shall be made by the individual accepting the

complaint to have the individual filing the complaint provide the information listed in paragraph (C) of this rule.

(E) What department accepts the written complaints?

Written complaints will be accepted by the secretary of agriculture or the administrator of food and nutrition service (FNS) even ~~if when the above~~ information outlined in this rule is not complete. However, investigations will be conducted only ~~if when~~ the information in ~~paragraphs~~paragraph (C)(1), (C)(2), (C)(3), and (C)(4) of this rule is provided.

(F) Is there a deadline for filing a complaint?

A complaint must be filed no later than one hundred eighty days from the date of the alleged discrimination; however, the time for filing may be extended by the United States secretary of agriculture.

(G) What are the county agencies required to do?

County agencies shall:

(1) Provide information on the nondiscrimination clause.

- (a) Publicize the procedures described in paragraphs (B) and (C) of this rule, and, if applicable, the county agency's complaint procedures.
- (b) Ensure that all offices involved in administering the program and that also serve the public display the "And Justice For All" nondiscrimination poster form AD-475B (~~effective December 1, 2015~~)(revised September 2019) provided by FNS.
- (c) Ensure that participants and other low-income assistance groups have access to information regarding nondiscrimination statutes and policies, complaint procedures, and their rights, within ten days of the date of a request for the information.

(2) Obtain data on the assistance groups by race/ethnicity.

- (a) The race categories are: "American Indian" or "Alaska Native", "Asian", "Native Hawaiian" or "Pacific Islander", "Black" or "African American", and "White". The ethnicity categories are "Hispanic or Latino", and "Not Hispanic or Latino."

- (b) The SNAP application requests that applicants voluntarily identify their race/ethnicity on the application form. The application clearly indicates that the information is voluntary, that it will not affect eligibility or the level of benefits, and that the reason for the information is to ensure that program benefits are distributed without regard to race, color, or national origin.
  - (c) In order to comply with required reporting of racial/ethnic data, the county agency shall collect the racial and ethnic data from observation during the interview when the information is not voluntarily provided by the assistance group on the application form.
- (3) Establish and maintain a system for complaints.
- (a) The county agency shall make information on the complaint system and how to file a complaint available to participants, potential participants, and other interested persons. The county agency may make the information available through written materials or posters at certification offices or other appropriate means.
  - (b) Each county agency shall establish and maintain a system for handling program complaints filed by participants, potential participants, or other concerned individual or groups. This includes but is not limited to the following:
    - (i) Processing standards;
    - (ii) Services to participants and potential participants;
    - (iii) Long waiting lines;
    - (iv) Location and hours of service;
    - (v) Availability of applications; and
    - (vi) Availability of twenty-four hour service.
- (4) After a complaint is received the county agency shall:
- (a) Obtain as much information as possible to get a clear understanding of what the complaint is;
  - (b) Establish a corrective action plan in an effort to correct the issue;

- (c) Respond to the individual who submitted the complaint explaining how the issue will be resolved; and
- (d) Maintain records of complaints received and their disposition, and shall review records at least annually to assess whether patterns of problems may be present. The county agency shall make these records available for review by the state agency and FNS upon request.

Effective: 7/1/2022  
Five Year Review (FYR) Dates: 2/24/2022 and 07/01/2027

CERTIFIED ELECTRONICALLY

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Certification

06/07/2022

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Date

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Rule Amplifies: 5101.54, 329.04, 329.042  
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