



November 15, 2023

Food Assistance Transmittal Letter No. 448

TO: All Food Assistance Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Food Assistance: nondiscrimination.

Ohio Administrative Code rule 5101:4-1-15 was amended as a result of further review by the Office of Family Assistance (OFA) and the Ohio Department of Job and Family Services Bureau of Civil Rights.

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 12/1/2023.

Chapter 1000

5101:4-1-15 "Food assistance: nondiscrimination and program complaints."

This rule describes the process and procedures for county agencies to meet Federal nondiscrimination requirements, the process when individuals allege discrimination and/or how to file program complaints. Changes to the rule include:

- The title of the rule was changed to nondiscrimination and program complaints to account for the rule including the process of filing the Supplemental Nutrition Assistance Program (SNAP) complaints;
- Added an introduction paragraph to the rule to explain the process when an applicant or recipient of SNAP alleges discrimination and/or has program complaints;
- Added the amendment date to the American with Disabilities Act in paragraph (A);
- Updated the protected classes listed in paragraph (A)(4) based on the updated United States Department of Agriculture (USDA) nondiscrimination statement;
- Paragraph (B) was updated to add that a discrimination complaint may be filed with the local county agency;
- Paragraph (B)(1)(a) was updated with the direct link to the Program Discrimination Complaint Form AD-3027;

- Language that was stricken from paragraph (E) was added to (B)(1)(b) to combine information about filing discrimination complaints;
- Language from paragraph (B)(1)(b) was moved to (B)(1)(c) and updated with the current contact information to submit discrimination complaints to the USDA;
- Paragraph (B)(2) was amended to clarify filing discrimination complaints;
- Paragraph (B)(3) was added to indicate discrimination complaints may be filed at the local county agency;
- Updated the protected classes listed in paragraph (C)(4) based on the updated USDA nondiscrimination statement;
- Paragraph (E) was stricken, the language was added to paragraph (B)(1)(b);
- Paragraph (F)(1) language added that counties are to adhere to requirements as defined in rule 5101:9-2-02 of the Administrative Code;
- Clarification made to identify the procedures for discrimination and program complaints in paragraph (F)(2)(a);
- Language was stricken from paragraph (F)(2)(b) that limited the source of the “And Justice for All” nondiscrimination poster form AD-475B;
- Edits made to identify the procedures for discrimination and program complaints in paragraph (F)(2)(c); and
- Clarification made to identify the procedures for program complaints in paragraph (F)(4) and (F)(5).

5101:4-1-15

Food assistance: nondiscrimination and program complaints.

This rule describes the process when an individual alleges discrimination as an applicant or recipient of the supplemental nutrition assistance program (SNAP) and/or has a complaint regarding the SNAP program.

(A) What is the nondiscrimination policy for ~~the supplemental nutrition assistance program (SNAP)~~ 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 as amended in 2008 by Pub. L. No.110-325 (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 (including all federally protected classes pertaining to sex), age, disability, ~~religious creed~~ religion, or political beliefs, or reprisal or retaliation for prior civil rights activity.

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

An individual who believes they 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~~ and/or the local county agency.

(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 <https://www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint>

~~form.pdf~~ <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, at any USDA office, or may be requested from the USDA by calling (866) 632-9992; or

(b) Submit a ~~written~~ letter that includes the information described in paragraph (C) of this rule. Written complaints will be accepted by the secretary of agriculture or the administrator of food and nutrition service (FNS) even when the information outlined in this rule is not complete. However, investigations will be conducted only when the information in paragraph (C)(1), (C)(2), (C)(3), or (C)(4) of this rule is provided. 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.~~

(c) An individual may submit the letter or completed form to USDA by:

(i) Mail: "Food and Nutrition service, USDA 1320 Braddock Place, Room 334, Alexandria, VA 22314"; or

(ii) Fax: (833) 256-1665 or (202) 690-7442; or

(iii) Email: FNSCIVILRIGHTSCOMPLAINTS@usda.gov.

~~(2) An individual may also~~ To file a written complaint of discrimination with ODJFS. To file a written complaint, an individual may submit the JFS 02333, "Discrimination complaint" form or 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, 30th Floor, Columbus, Ohio 43215- 3414."

(3) To file a complaint of discrimination with the local county agency, an individual may submit a letter that includes information described in paragraph (C) of this rule.

(C) What needs to be included in a written complaint?

(1) Name, address, telephone number, or other means of contacting the person alleging discrimination.

- (2) Location and name of the organization or office 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 (including all federally protected classes pertaining to sex), disability, ~~religious creed~~ religion, national origin, ~~or~~ political beliefs, or reprisal or retaliation for prior civil rights activity).
- (5) The names, titles (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 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 when information outlined in this rule is not complete. However, investigations will be conducted only when the information in paragraph (C)(2), (C)(3), or (C)(4) of this rule is provided.~~

~~(F)~~ (E) 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)~~ (F) What are the county agencies required to do?

County agencies ~~shall~~ are to:

- (1) Adhere to the requirements as defined in rule 5101:9-2-01 of the Administrative Code.

~~(1)~~(2) Provide information on the nondiscrimination ~~clause~~policy.

- (a) Publicize the discrimination complaint procedures described in paragraphs (B) and (C) of this rule, and, if applicable, the county agency's program 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 (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~~procedures for filing a program or discrimination complaint, and their rights, within ten days of the date of a request for the information.

~~(2)~~(3) 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)~~(4) Establish and maintain a system for program complaints.

- (a) The county agency shall make information on the program 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. Program complaints ~~This includes~~ include, but ~~is~~ are 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)~~(5) After a program 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: 12/1/2023

Five Year Review (FYR) Dates: 7/1/2027

CERTIFIED ELECTRONICALLY

Certification

11/14/2023

Date

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