



June 5, 2024

**Food Assistance Transmittal Letter No. 450**

**TO:** All Food Assistance Manual Holders

**FROM:** Matt Damschroder, Director

**SUBJECT:** Food Assistance: nondiscrimination and program complaints.

Ohio Administrative Code rule 5101:4-1-15 was amended as a result of the United States Department of Agriculture, Food and Nutrition Service (FNS), publishing the Race and Ethnicity Data Collection final rule on December 14, 2023. The rule revises Supplemental Nutrition Assistance Program (SNAP) regulation at CFR 272.6(g) that covers the requirements for the collection and reporting of race and ethnicity data by state agencies of individuals applying for and receiving SNAP benefits.

SNAP applications include the option for applicants to indicate their race and ethnicity. Previously, if the applicant did not disclose this information, the agency could use observation from the interview as an alternate means to gather the data when the information was not included on the application form. Changes to rule prohibit observation as an alternate means to collect and report race and ethnicity data.

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 7/1/2024.

**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:

- Paragraph (F)(3)(c) was updated to prohibit the county agency from using observations during the interview as a means to collect racial/ethnic data to comply with required data reporting; and
- Restrictive language removed throughout the rule for clarity.

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 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~~are to 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~~are not to 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, religion, political beliefs, or reprisal or retaliation for prior civil rights activity.

**(B) What steps ~~shall~~are to 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 the USDA, the Ohio department of job and family services (ODJFS), bureau of civil rights and/or the local county agency.

- (1) To file a complaint of discrimination with the USDA, an individual may:
  - (a) Complete the USDA "Program Discrimination Complaint Form," (AD-3027) (1/19/12) found online <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 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.
- (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](mailto:FNSCIVILRIGHTSCOMPLAINTS@usda.gov).
- (2) To file a written complaint of discrimination with ODJFS, 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, religion, national origin, 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~~happens 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~~is to document the complaint in writing. Every effort ~~shall~~is to 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) Is there a deadline for filing a complaint?

A complaint ~~must~~is to 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.

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

County agencies are to:

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

(2) Provide information on the nondiscrimination 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).

(c) Ensure that participants and other low-income assistance groups have access to information regarding nondiscrimination statutes and policies, procedures for filing a program or discrimination complaint, and their rights, within ten days of the date of a request for the information.

(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 ~~shallis to~~ collect the racial and ethnic data ~~from observation during the interview~~ using alternative means when the information is not voluntarily provided by the assistance group on the application form. Alternative means do not include observation (also known as visual observation).
- (4) Establish and maintain a system for program complaints.
- (a) The county agency ~~shallis to~~ 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 ~~shallis to~~ establish and maintain a system for handling program complaints filed by participants, potential participants, or other concerned individual or groups. Program complaints include, but are not limited to:
    - (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.
- (5) After a program complaint is received the county agency ~~shallis to~~:

- (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~~ shall to review records at least annually to assess whether patterns of problems may be present. The county agency ~~shall~~ shall to make these records available for review by the state agency and FNS upon request.

Effective: 7/1/2024

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

CERTIFIED ELECTRONICALLY

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Certification

06/04/2024

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Date

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