

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, DC 20250

<b>DEPARTMENTAL REGULATION</b>	NUMBER: DR 4330-002
SUBJECT: Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from USDA	DATE: July 27, 2021
OPI: Office of the Assistant Secretary for Civil Rights	EXPIRATION DATE: July 27, 2026

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1. PURPOSE

- a. This Departmental Regulation (DR) establishes the United States Department of Agriculture (USDA) policy for ensuring programs and activities receiving Federal financial assistance from USDA are in compliance with applicable civil rights laws, including the prohibition against discrimination in those programs and activities.
- b. This DR establishes the policy for achieving compliance through civil rights complaints against recipients of Federal financial assistance from USDA who operate those programs and activities.

## 2. SPECIAL INSTRUCTIONS/CANCELLATIONS

This DR supersedes DR 4330-002, *Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance From USDA*, dated March 3, 1999.

## 3. SCOPE

This regulation applies to all programs and activities receiving Federal financial assistance from USDA Mission Areas and agencies.

## 4. POLICY

- a. No person will be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in programs or activities receiving financial assistance from USDA based on:

- (1) Race;
- (2) Color;
- (3) National origin;
- (4) Age;
- (5) Disability;
- (6) Because of prior civil rights activity;

And as applicable:

- (7) Sex (including sexual orientation and gender identity);
- (8) Religion; or
- (9) Political beliefs.

- b. USDA will enforce this policy through the fair and efficient processing and addressing of complaints of discrimination and non-compliance with civil rights laws filed against recipients of USDA financial assistance. USDA will also enforce this policy through civil rights compliance reviews, which will be addressed in greater detail in another forthcoming DR.
- c. No recipient of USDA financial assistance will retaliate against or intimidate a person because they:

- (1) File a discrimination complaint against a recipient of financial assistance from USDA or participate in the processing of such a complaint;
- (2) Participate in or provide information for a civil rights review of a program or activity receiving financial assistance from USDA; or
- (3) Aid or support the enforcement of Federal civil rights laws or policies against a recipient or take other action in opposition to prohibited discriminatory practices by a recipient.

## 5. COMPLAINT PROCESSING

### a. Filing a Complaint

- (1) Any individual or group of individuals that believe they have been subjected to discrimination in a program or activity receiving Federal financial assistance from USDA may file a complaint with the Secretary of Agriculture (Secretary), or the Assistant Secretary for Civil Rights (ASCR) or their designee.
- (2) Individuals or groups must file their complaint within 180 calendar days of the date of the alleged discrimination or non-compliance with the law. The ASCR may extend the filing deadline for good cause. All complaints must be signed by the complainant.
- (3) Complaints must be filed using either Form [Agriculture Department \(AD\) -3027](#), *USDA Program Discrimination Complaint Form* or another written document with all the information required by Form AD-3027. See Section 5c(1)(c) below, for information regarding administrative closures. See Appendix D, *Complaint Form Information*, for the list of information required by Form AD-3027.

### b. Voluntary Compliance and Alternative Dispute Resolution (ADR)

- (1) During the complaint process, the USDA agency that provided financial assistance to the recipient named in a complaint will participate in efforts to bring the recipient into voluntary compliance with civil rights laws.
- (2) The ASCR will utilize ADR to achieve a recipient's voluntary compliance with civil rights laws. The ASCR will determine where to utilize ADR.
- (3) The ASCR will forward all complaints having claims under the [Age Discrimination Act of 1975](#), to the mediation agency designated by the Secretary, Health and Human Services, for possible resolution.

c. Complaint Intake and Notifications

(1) The ASCR:

- (a) Will review each complaint to determine if it was timely filed and relates to civil rights laws USDA enforces. The ASCR will refer complaints not within USDA's jurisdiction or subject to concurrent jurisdiction to the appropriate Federal, State, or local agencies;
- (b) Will keep the complainant's identity confidential to the extent permitted by law until the complainant has provided written authorization to share their identity;
- (c) May close a complaint during any stage of the complaint process after a determination that procedural grounds exist for an administrative closure;
- (d) Will accept complaints for further processing if they are not closed during intake; and
- (e) Will promptly investigate all accepted complaints that indicate a possible failure by a recipient to comply with any applicable civil rights law, rule, regulation, or policy.

- (2) Good cause must exist for the ASCR not to investigate an accepted complaint. The ASCR will explain the good cause in the notification of disposition. In those situations, the ASCR will explore the feasibility of referring the complaint to the primary recipient (e.g., a State agency) for investigation.

d. Investigations

- (1) Investigations must be conducted impartially. They will be limited to learning facts and collecting evidence relevant to determining if a recipient discriminated against a complainant in violation of a Federal civil rights law, rule, regulation, or policy, or was in non-compliance in another way.
- (2) The ASCR will conduct investigations in accordance with standards and requirements found in Federal statutes, regulations, Executive Orders, case law, policies, and guidance.
- (3) The ASCR will maintain a record of the evidence and findings of fact collected in the investigation.

e. Complaint Adjudication and Disposition

- (1) When the investigation is completed, the ASCR will review and analyze the facts and evidence and apply proper legal standards to ensure findings of fact and conclusions of law are consistent with statute, regulation, and case law.

- (2) If the ASCR finds no violation or determines that no further action is warranted, the ASCR will provide written notification to the recipient and the complainant of that decision.
- (3) If the ASCR determines that the recipient is in non-compliance with civil rights law, rule, regulation, or policy, the ASCR will promptly notify the recipient of that conclusion. The Mission Area or agency that provided funds to the recipient will then initiate efforts to bring the recipient into voluntary compliance.
- (4) If the Mission Area or agency, and recipient reach a resolution to bring the recipient into voluntary compliance with civil rights law, rule, regulation, or policy, the resolution will be documented in a signed written agreement between the recipient and the ASCR. If the complainant and recipient reach a resolution, the terms will be documented in a written agreement between them, and a signed copy will be provided to the ASCR.
- (5) If voluntary compliance is not achieved, the ASCR will issue a Final Agency Decision (FAD) that determines if the recipient discriminated or was in non-compliance with a civil rights law, rule, regulation, or policy. The FAD will summarize the facts and evidence, state findings of fact and conclusions of law for each issue and provide appeal rights if applicable. In appropriate circumstances, the ASCR will initiate proceedings under 7 Code of Federal Regulations (CFR) §§ [15.8](#), *Procedure for effecting compliance*; [15.9](#), *Hearings*; and [15.10](#), *Decisions and notices*.
- (6) If the FAD concludes the recipient discriminated or was in non-compliance with a civil rights law, rule, regulation, or policy, the ASCR will direct the recipient to remedy the discrimination or correct the non-compliance or will direct or recommend resolution efforts aimed at achieving voluntary compliance. This may include payment of damages where permitted by law.

## 6. MONITORING COMPLIANCE AND NOTIFYING JUSTICE DEPARTMENT

- a. When the ASCR issues a FAD with a finding of discrimination or non-compliance with a civil rights law, rule, regulation, or policy by a recipient and orders steps to remedy the discrimination or achieve compliance, the ASCR will monitor the recipient until there is full compliance with the FAD.
- b. When the ASCR and the recipient sign an agreement to bring the recipient into voluntary compliance with the law, the ASCR will monitor the recipient until there is full compliance with the agreement. Similarly, the ASCR will monitor the recipient until there is full compliance with any agreement reached between the recipient and the complainant.

- c. Once the ASCR determines the recipient has achieved full compliance, the ASCR will issue a letter closing the complaint.
- d. When a recipient refuses or fails to comply with any of the terms in a FAD or agreement, the ASCR will notify the U.S. Department of Justice (DOJ) and may take action under 7 CFR §§ 15.8-15.10 to terminate or suspend all USDA financial assistance to the recipient.

## 7. REASONABLE ACCOMMODATIONS

The ASCR will make reasonable accommodations in the complaint process to assist complainants or other persons with a disability.

## 8. REVIEWS

- a. USDA will conduct compliance reviews of programs and activities receiving financial assistance from USDA to ensure there is full compliance with Federal civil rights laws, rules, regulations, and policies.
- b. Civil Rights Directors will develop annual compliance review schedules consistent with this USDA DR on compliance as part of their program for monitoring recipients.

## 9. ROLES AND RESPONSIBILITIES

- a. The Secretary will:
  - (1) Provide leadership, direction, and establish policy for USDA enforcement of civil rights laws and compliance with those laws by recipients of financial assistance from USDA; and
  - (2) Ensure the availability of adequate resources to support and carry out a broad range of civil rights compliance and enforcement activities throughout USDA.
- b. The ASCR or their designee will:
  - (1) Direct, coordinate, and provide oversight over USDA's enforcement of civil rights laws and compliance with those laws by recipients of USDA financial assistance through rules, regulations, policy, complaint processing, compliance reviews, and other actions;
  - (2) Ensure USDA Mission Areas and agencies inform recipients of their civil rights compliance responsibilities through training, dissemination of information, and technical assistance;

- (3) Review, supplement, or modify investigations, decisions, agreements, and other complaint processing actions taken by Mission Area or agency officials designated by the ASCR, and provide other oversight;
  - (4) Process appeals, where applicable, of Mission Area or agency decisions; and
  - (5) Recommend enforcement actions to DOJ to ensure recipients' compliance with Federal civil rights requirements.
- c. Under and Assistant Secretaries, supported by their Civil Rights Directors, will:
- (1) Enforce compliance with civil rights laws by recipients of financial assistance from their Mission Areas;
  - (2) Issue Mission Area directives and policy consistent with USDA rules, regulations, and policy;
  - (3) Process complaints against recipients consistent with USDA rules, regulations, procedures, and established memoranda of understanding;
  - (4) Ensure recipients' compliance with FADs and settlement and voluntary resolution agreements, including timely implementation of corrective action plans; and
  - (5) Develop annual compliance review schedules and conduct reviews of recipients.
- d. Agency Heads will:
- (1) Enforce compliance with civil rights laws by recipients of financial assistance from their agencies;
  - (2) If applicable, ensure that recipients timely submit their signed Statements of Assurance or Federal-State Agreements;
  - (3) Assist and cooperate with the ASCR and Civil Rights Directors in resolving recipients' non-compliance; and
  - (4) Collect and analyze data and information to evaluate success in ensuring recipients' compliance with civil rights laws.
- e. The General Counsel will:
- (1) Provide legal advice and guidance to support USDA's programs to ensure compliance with civil rights laws by recipients of USDA financial assistance; and
  - (2) Conduct legal sufficiency reviews, when required or requested by the ASCR, of:

- (a) Findings of discrimination or non-compliance with civil rights laws;
- (b) The terms of settlement or voluntary resolution agreements;
- (c) Awards of compensatory damages and attorney fees; and
- (d) Other legal issues.

## 10. INQUIRIES

All USDA Mission Areas, agencies, and staff offices should direct questions and inquiries regarding this DR to the Center for Civil Rights Operations (CCRO), Compliance Division, via email at [CCROCOMPLIANCE@usda.gov](mailto:CCROCOMPLIANCE@usda.gov).

-END-



## APPENDIX A

### ACRONYMS AND ABBREVIATIONS

AD	Agriculture Department (Prefix for Departmental forms)
ADR	Alternative Dispute Resolution
ASCR	Assistant Secretary for Civil Rights
CCRO	Center for Civil Rights Operations
CFR	Code of Federal Regulations
DG	Departmental Guidebook
DOJ	United States Department of Justice
DR	Departmental Regulation
EEOC	Equal Employment Opportunity Commission
FAD	Final Agency Decision
P.L.	Public Law
Secretary	Secretary of Agriculture
SM	Secretary's Memorandum
U.S.C.	United States Code
USDA	United States Department of Agriculture

## APPENDIX B

### DEFINITIONS

Civil Rights Director. An individual appointed by the Agency Head who is responsible for the implementation of an equal employment program and for federally assisted and federally conducted programs, to promote equal employment opportunity, and to identify and eliminate discriminatory practices and policies. Civil Rights Directors report directly to their Agency Heads. (Source: Adapted from [Departmental Guidebook \(DG\) 0100-002](#), *USDA Departmental Directives Definitions Glossary*, September 26, 2018; modified to delete language about Equal Employment Opportunity Commission (EEOC) regulations which was not applicable)

Complainant. Any person or group of persons who believes they have been subjected to discrimination in a program or activity receiving Federal financial assistance from USDA. (Sources: Adapted from DR 4330-002, *Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance From USDA*, Section 6c (March 3, 1999 version); and DR 4330-003, *Nondiscrimination in USDA-Conducted Programs and Activities*, Section 5e (October 15, 2015 version); this revised language is a slightly modified hybrid based on these two sources)

Complaint. A written statement that contains the complainant's name and address and describes a Recipient's alleged discriminatory action in sufficient detail to inform the ASCR of the nature and date of an alleged civil rights violation. The statement must be signed by the complainant(s) or someone authorized to sign on behalf of the complainant(s). To accommodate the needs of persons with disabilities, special needs, or who have Limited English Proficiency, a complaint may be in an alternative format. (Source: Adapted from DR 4330-003, Section 5f (October 15, 2015 version); slightly modified for assisted complaints)

Discrimination. Different treatment or denial of benefits, services, rights, or privileges to a person or persons, because of their membership in one or more of the protected classes listed in Section 4 of this Departmental Regulation, by or in connection with a program or activity receiving Federal financial assistance from USDA. Specific examples of prohibited discriminatory actions are found in [7 CFR §15.3](#). (Source: [7 CFR §15.3](#), *Discrimination prohibited*)

Federal Financial Assistance or financial assistance from USDA. Includes:

- a. Grants and loans of Federal funds;
- b. The grant or donation of Federal property and interests in property;
- c. The detail of Federal personnel;
- d. The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is

reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient; and

- e. Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. (Source: [7 CFR § 15.2\(g\)](#))

Program or Activity. All of the operations of any entity listed in [7 CFR § 15.2\(k\)](#), any part of which receives Federal financial assistance from USDA. (Source: [7 CFR § 15.2\(k\)](#))

Recipient. Any State, political subdivision of any State, or instrumentality of any State or political subdivision (to include the District of Columbia and any U.S. territories and possessions), any public or private agency, institution, or organization, or any entity or individual in any State, to whom USDA extends Federal financial assistance, directly or through another recipient, for any program or activity, including any successor, assignee, or transferee thereof, but not including any ultimate beneficiary of the assistance. For purposes of this Departmental Regulation, the term “recipient” includes entities that have applied for Federal financial assistance. (Sources: [28 CFR § 42.102](#), *Definitions*; [7 CFR § 15.2\(e\)](#))

Retaliation. Intimidation, threats, coercion, or discrimination against any individual because they have made a complaint against or testified, assisted, or participated in a civil rights investigation involving a recipient of financial assistance from USDA. (Source: [28 CFR § 42.107\(e\)](#))

APPENDIX C  
AUTHORITIES AND REFERENCES

*Age Discrimination Act of 1975*, as amended, [42 U.S.C. §§ 6101 et seq.](#)

*Americans with Disabilities Act of 1990*, as amended, [42 U.S.C. §§ 12101 et seq.](#)

*Civil Rights Restoration Act of 1987*, P.L. 100-259, as amended by, *Civil Rights Act of 1991*, [P.L. 102-166](#), codified at 42 U.S.C. § 1981(a)

*Compliance Procedures*, [28 CFR Part 35, Subpart F](#)

*Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs*, [28 CFR Part 42, Subpart F](#)

*Delegations of Authority by the Secretary of Agriculture to the Assistant Secretary for Civil Rights*, [7 CFR § 2.25](#)

*Education Programs or Activities Receiving or Benefitting from Federal Financial Assistance*, [7 CFR Part 15a](#),

[Executive Order 12250](#), *Leadership and Coordination of Implementation and Enforcement of Nondiscrimination Laws*, November 2, 1980

[Executive Order 12898](#), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, February 11, 1994

[Executive Order 13985](#), *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, January 20, 2021

[Executive Order 13988](#), *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, January 20, 2021

[Executive Order 14008](#), *Tackling the Climate Crisis at Home and Abroad*, January 27, 2021

*Food and Nutrition Act of 2008*, as amended, [7 U.S.C. §§ 2011 et seq.](#)

[Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency](#), November 28, 2014

*Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964*, [28 CFR § 50.3](#)

*Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap in Federally Assisted Programs, [28 CFR Part 41](#)*

*Nondiscrimination in Federally Assisted Programs of the Department of Agriculture — Effectuation of Title VI of the Civil Rights Act of 1964, [7 CFR Part 15, Subpart A](#)*

*Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the United States Department of Agriculture, [7 CFR Part 15c](#)*

*Nondiscrimination on the Basis of Disability in State and Local Government Services, [28 CFR Part 35](#)*

*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance, [7 CFR Part 15b](#)*

*Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance, [28 CFR Part 42, Subpart H](#); [29 CFR § 1691](#)*

*Procedures for Coordinating the Investigation of Complaints or Charges of Employment Discrimination Based on Disability Subject to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, [29 CFR § 1640](#)*

Section 504 of the *Rehabilitation Act of 1973*, as amended, [29 U.S.C. § 794](#)

Title VI of the *Civil Rights Act of 1964*, as amended, [42 U.S.C. § 2000d](#)

Title VIII of the *Civil Rights Act of 1968*, as amended by the *Fair Housing Amendments Act of 1988*, [42 U.S.C. §§ 3601 et seq.](#)

Title IX of the *Education Amendments of 1972*, [20 U.S.C. §§ 1681 et seq.](#)

USDA, [AD-3027](#), *USDA Program Discrimination Complaint Form*, January 19, 2012

USDA, [DG 0100-002](#), *Departmental Directives Definitions Glossary*, September 26, 2018

USDA, [DR 0100-001](#), *Departmental Directives System*, January 4, 2018

USDA, [DR 4300-003](#), *Equal Opportunity Public Notification Policy*, October 17, 2019

USDA, [DR 4710-001](#), *Alternative Dispute Resolution*, April 5, 2006

USDA, [DR 5600-002](#), *Environmental Justice*, December 15, 1997

USDA, [SM 1076-023](#), *Strengthening Civil Rights Management Functions*, March 9, 2018

## APPENDIX D

### COMPLAINT FORM INFORMATION

The following required information from Form [AD-3027](#), *USDA Program Discrimination Complaint Form*, must be included if a Complainant uses a written format other than Form AD-3027 to initiate a complaint:

1. Name of Complainant (First, Middle, Last).
2. Mailing Address (Street with number or P.O. Box, Apartment number, City, State, Zip Code).
3. Email Address.
4. Telephone Number (with Area Code) (include alternate telephone number if available)
5. Best way to reach you: Mail, phone, email, other (specify).
6. Do you have a lawyer or representative for this complaint? (Yes or No)
  - a. If yes, provide the Representative's: First and last name; full address (including Zip Code), telephone, and email address.
7. Who do you believe discriminated against you? (including name(s) of person(s) involved if known).
8. Name of the program you applied for (if known/if applicable).
9. Name of the U.S. Department of Agriculture agency that provides Federal financial assistance for the program (if known):
  - a. Farm Service Agency;
  - b. Rural Development;
  - c. Food and Nutrition Service; or
  - d. Other.
10. What happened to you? State the date when the alleged discrimination occurred and then describe what happened. If the alleged discrimination occurred more than once, provide the other dates, and describe what happened. Include any supporting documents that would help show what happened. Include the address where the discrimination or incident occurred: City, State, Zip Code.

11. It is a violation of the law to discriminate against you based on the following: race, color, national origin, age, disability, sex, religion, political beliefs, or in retaliation for prior civil rights activity. (Not all bases apply to all programs) You believe you were discriminated against based on which basis(es)?
12. Remedies: How would you like to see this complaint resolved?
13. Have you filed a complaint about the incident(s) with another Federal, state, or local agency or with a court? (Yes or No)
  - a. If yes, with what agency or court did you file?
  - b. When did you file (month/day/year)?
14. If you are filing this complaint more than 180 calendar days after the alleged discrimination occurred, please provide your “good cause” explanation for filing after that deadline.
15. Your signature or signature of your authorized representative.
16. Date you signed your complaint.

**Mail Completed Form To:**

USDA  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Ave, SW, Stop 9410  
Washington, D.C. 20250-9410

**E-mail address:** [program.intake@usda.gov](mailto:program.intake@usda.gov)

**Telephone Numbers:**

Local area:	(202) 260-1026
Toll-free:	(866) 632-9992
Local or Federal relay:	(800) 877-8339
Spanish relay:	(800) 845-6136
Fax:	(202) 690-7442