



UNITED STATES DEPARTMENT OF
AGRICULTURE

AGE
DISCRIMINATION
ACT REPORT
For Fiscal Year 2022



UNITED STATES DEPARTMENT OF AGRICULTURE AGE DISCRIMINATION ACT REPORT

The U.S. Department of Agriculture (USDA) Fiscal Year (FY) 2022 report on the Age Discrimination Act of 1975 (the Age Act), as amended, provides complaint and departmental compliance activity in accordance with the requirements of Section 308(a) of the Age Act. Activities for FY 2022 are summarized below and in the attached data tables¹.

SUMMARY OF ACTIVITIES

I. Status of Agencies Regulations

The USDA Age Act regulation, 7 CFR Part 15c, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the U.S. Department of Agriculture,” was finalized and published on January 1, 2016. The regulation can be found at <https://www.govinfo.gov/app/details/CFR-2022-title7-vol1/CFR-2022-title7-vol1-part15c>. The regulation prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance from USDA. All USDA Mission Areas and agencies are required to adhere to the provisions set forth in the regulation and related guidance on nondiscrimination on the basis of age.

II. Complaint Activity

During FY 2022, USDA received 52 complaints citing or alleging age as a basis of discrimination (age complaints) in its Federally assisted programs. In addition, 22 age complaints were carried over from FY 2021, resulting in a total inventory of 74 age complaints for FY 2022. Table 1 below illustrates USDA’s FY 2022 age discrimination complaint activity:

Table 1: Age Discrimination Complaint Activity

Agency	Carried Over from FY 2021	Received in FY 2022	Total Workload
USDA Total	22	52	74

Of the total age complaints received in FY 2022, 28 (54%) originated from Food and Nutrition Service (FNS) programs, 23 (44%) originated from Rural Development (RD), and 1 (2%) originated from the Forest Service (FS).

FNS’ complaint activity for FY 2022 was attributed to communication issues and customer service between program users and staff at state and local agencies receiving Federal financial assistance from FNS’ Supplemental Nutrition Assistance Program (SNAP). There were no patterns or practices of discrimination identified in the age-based complaints received in FY 2022. RD’s complaint activity for FY 2022 is related to multi-family rental housing, is included with other protective bases, and does not make a clear, separate, or distinct statement specifically relating to age only. FS’ case alleged Recreation Resource Management Officials discriminated against them, based on age, disability, and retaliation, but the case was closed due to lack of jurisdiction.

¹ See Attachment I.

USDA resolved 37 (50%) of the 74 total age complaints workload in FY 2022. Of the 37 complaints resolved, 11 (30%) were resolved based on insufficient evidence of a violation, 1 (2%) was resolved with an agreement for corrective action/other change without a specific finding of a violation, and 25 (68%) were resolved administratively. Table 2 below illustrates USDA FY 2022 complaint resolution activity:

Table 2: Age Discrimination Complaint Resolution Activity

Cases Resolved Based on Insufficient Evidence of a Violation	Cases Resolved w/ Agreement for Corrective Action/Other Change Without a Specific Finding of a Violation	Resolved Based on Specific Finding of Violation	Cases Resolved Administratively	Total Cases Resolved in FY 2022
11	1	0	25	37

III. Significant Cases

USDA had no significant cases to report in FY 2022.

IV. Mediation

Under the Administrative Dispute Resolution Act of 1996, the Federal Mediation and Conciliation Service (FMCS) was officially authorized to share its expertise in all aspects of dispute resolution with Federal agencies, including third-party dispute resolution assistance, dispute resolution training for agency personnel, and consultation/systems design. USDA referred 29 age discrimination complaints in FY 2022 to FMCS, of which 8 (28%) were successfully mediated. Table 3 below illustrates USDA's referral activity:

Table 3: Age Complaints Referred to FMCS

Referred to FMCS in FY 2022	Not Referred to FMCS in FY 2022
29*	38*

*The total number of complaints referred and not referred to FMCS does not reflect the total number of complaints received in FY 2022. The discrepancy is attributed to complaints received later in the fiscal year and not forwarded to FMCS until the following fiscal year.

V. Compliance Reviews

USDA agencies conducted 113 compliance reviews on its Federally assisted programs. Due to travel restrictions because of the COVID-19 pandemic, Mission Areas and agencies created a virtual-based plan to accomplish compliance review goals. Included in this plan were interviews of recipients, examination of documents, and virtual desk reviews to assess activities and to review the effectiveness of the enforcement of civil rights laws, Executive Orders and Departmental and agency regulations. The assessment of recipients' compliance with the Age Act was one component of several components reviewed for compliance with Federal civil rights laws.

Based on the compliance reviews conducted, no pattern, practice, or findings of any age-related discrimination was found. Table 4 below illustrates USDA's compliance review activity:

Table 4: Compliance Review Activity

Agency	Carried Over From FY 2021	Initiated in FY 2022	Total Workload in FY 2022	Total Reviews Closed in FY 2022	Reviews Pending at the End of FY 2022
USDA Total	84	29	113	66	47

VI. Technical Assistance, Staff Training, Outreach and Distribution of Information

A. Technical Assistance

USDA consists of a Mission Area and seven agencies which have federally assisted programs. The following technical assistance was provided by the Mission Area and agencies to its recipients in compliance with the Age Act:

- FNS' Civil Rights staff implemented the requirements of the Age Discrimination Act through training, meetings, conferences, technical assistance, and reviews. Regional Civil Rights Officers provide direct technical assistance as part of the compliance review process. The Civil Rights Office continues to conduct training for FNS regional program staff, State Directors, and State and local agency staff at national, regional, and tri-regional conferences. This year the training reached over 5,000 state agency attendees and 300 regional program attendees. Program recipients received training on the Age Act as part of specialized training conducted on Meal Modification requirements for the National School Lunch Program, or the Child and Adult Care Food Program/the Summer Food Service Program, SNAP Employment and Training, and Limited English Proficiency;
- The Farm Production and Conservation (FPAC) Mission Area continues to share information on the Age Act in the full non-discrimination statement on all outreach training materials, brochures, advertisements, and training presentations at farmers meetings and conferences. FPAC offices are required to post non-discrimination language on their public-

facing materials, both online and in outreach materials. Their recipients are provided direct technical assistance regarding equal opportunity including the Age Act, and they must establish, maintain, and carry out an effective equal opportunity employment program. In addition, their recipients are required to comply with age mandates, when producing marketing materials and providing community outreach for their programs;

- The National Institute of Food and Agriculture (NIFA) provided a webinar for its grantees on the Age Act and posted the webinar to its website. The webinar provided an overview of the language of the Age Act, and its requirements; permissible use of age distinctions; and best practices. Additionally, NIFA routinely provides technical assistance to its grantees with regard to the Age Act in support of NIFA's equal opportunity and civil rights compliance and training activities;
- The Food Safety and Inspection Service (FSIS) and Foreign Agricultural Service (FAS) and recipients continue to display the "And Justice For All" poster which includes "Age" as a protected basis. Both agencies also published the nondiscrimination statement which includes age as a protected basis on all public information; and
- FS Special Use Permit Administrators and Grants and Agreements Specialists continued to issue the "Partner-in-Service" resource package to recipients at the time of pre-award and post-award compliance reviews. This package contains valuable tools to help FS partners understand their roles and responsibilities under the Age Discrimination Act, Title VI of the Civil Rights Act, Title IX of the Education Amendments Act, and Section 504 of the Rehabilitation Act.

B. Staff Training

USDA emphasized and performed the following staff training on the Age Act:

- RD expanded their comprehensive Civil Rights and Compliance Review training that was presented to agency staff and recipients. On an annual basis, the RD Program Civil Rights training team updates its training work plan, which included measures to train internal and external customers on the Age Act. Due to the pandemic, training was provided utilizing various sources such as PowerPoint, MS Teams, and Teams Live. The expanded training was provided to employees in the following States: Michigan, Illinois, Iowa, North Carolina, Maine, New Mexico, and Kentucky. There was also one in-person training provided to all State Directors;
- FS Civil Rights Specialists expanded their Equal Opportunity training to over 1,500 employees and participants nation-wide. The training included policy guidance of Title VI of the Civil Rights Act, Title IX of the Education Amendments Act, Age Discrimination Act, EO 13166, Section 504 and 508, and Architectural Barriers Act;

- APHIS provided Fundamentals of Human Resource Management (FHRM) Training for new supervisors and a refresher for experienced supervisors, which included the Age Act in the Civil Rights for Supervisors training. This 28 hour training was provided to 214 participants. APHIS also presented Generational Diversity in the Workforce training to approximately 140 participants, where the Age Act was discussed;
- FNS Civil Rights staff provides training to Agency program staff, and age is a basis applicable to all nutrition assistance programs. Regional program staff also attended training conducted for State Directors and State and local agency staff. The Age Act is covered during training including scenarios to illustrate age issues;
- FAS employees are trained on nondiscrimination based on age and were provided with the FAS Civil Rights and Diversity Policy Statement; Anti-Harassment Policy Statement and Procedures; USDA Non-Discrimination Statement; and the Civil Rights Policy for the Department of Agriculture;
- FSIS staff employees continue to attend numerous civil rights-related webinars, conferences, and trainings. In most of these instances, prohibited protected bases, including age, were discussed;
- NIFA's staff attended a webinar on the Age Act. NIFA staff also attended a virtual, live Compliance Review Team Training: Civil Rights Knowledge and Procedures, which included a discussion of the Age Act in the context of conducting compliance reviews and providing effective oversight and technical assistance for federally assisted programs; and
- FPAC offered a new pilot course to 30 employees entitled, "Civil Rights and Program Delivery." The objective of this course is to raise awareness for field level staff on the protected basis including age in Title VI covered areas, as well as how the mission area can diversify their boards and councils, and how to collect and analyze program data at the county level to attract non-traditional and traditionally underserved participants in their programs. The plan is to expand this training to more employees nation-wide.

C. Outreach and Distribution of Information

USDA provided educational information to its recipients in accordance with the Age Act. Various outreach and distribution methods included:

- USDA continues to be a sponsor of the interagency Senior Pass that provides admission to FS, National Park Service, Bureau of Land Management, Bureau of Reclamation, and Fish and Wildlife Service sites that charge entrance or standard amenity fees. Those eligible for the Senior Pass must be U.S. citizens who are over 62 years of age. Admission is provided for the pass holder and any accompanying passengers in a private non-commercial vehicle. This pass is valid for the pass holder's lifetime.

VII. Other Agency Efforts to Reduce Age Discrimination

In FY 2022, USDA conducted the following additional efforts to reduce age discrimination:

- USDA continued to enforce the Age Act by conducting Civil Rights Impact Analyses on proposed rules, regulations, and products to ensure individuals or class(es) of individuals protected under the Age Act were not impacted by agency decisions; and
- USDA, in support of Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility, (DEIA) in the Federal Workforce, drafted the USDA DEIA Strategic Plan for Fiscal Years 2022 – 2026. This plan outlines actions USDA will take to help ensure equitable experiences and service to the American people and USDA's global constituents and partners in an effort to reduce age discrimination.

VIII. Analysis and Conclusion

USDA is taking a proactive approach to reduce the number of age complaints. Activities cited above indicates our demonstrated commitment to implement the regulation which provides guidance regarding the Age Act to all USDA employees and enhances the Department's prevention of age discrimination in federally assisted programs. With the required travel restrictions, because of the COVID-19 pandemic, USDA utilizes technology as one of its methods to ensure recipients are compliant with the Age Act requirements and employees are educated regarding the Age Act.

The DEIA Strategic Plan also serves as USDA's roadmap in creating and nurturing a workplace culture that consistently places equity at the center of our workforce. The goals, objectives, and strategies of the Strategic Plan are designed to create an environment in which DEIA, civil rights, and the Age Act are integrated into the structure and activities that USDA operates.

Moving forward, USDA will continue to employ proactive strategies to train management, employees, and customers on the Age Act. Additionally, USDA will continue to monitor complaint activity and focus on the prevention of age discrimination in its federally assisted programs and activities.

ATTACHMENT I

TABLE I: INVENTORY OF AGE DISCRIMINATION ACT COMPLAINTS

TABLE II: INVENTORY OF AGE DISCRIMINATION ACT COMPLIANCE REVIEWS

TABLE III: INVENTORY OF AGE DISCRIMINATION ACT MEDIATION ACTIVITIES

TABLE I:
INVENTORY OF AGE DISCRIMINATION ACT COMPLAINTS
(Carried Into and Received During FY 2022)

(1) Age Act Complaint Workload FY 2022		
(a) Age Act Complaints Carried Over from FY 2021	22	
(b) Age Act Complaints Received in FY 2022	52	
(c) Total Workload FY 2022	SUM (a) plus (b)	74
(2) Age Act Complaints Closed in FY 2022		
(a) Resolved based on insufficient evidence of a violation or no violation	11	
(b) Resolved based on agreement to implement corrective action or other change, without a specific finding of a violation	1	
(c) Resolved based on a specific finding of a violation, issuance of a Letter of Findings, and agreement to take corrective action	0	
(d) Resolved administratively (e.g. no jurisdiction, complaint withdrawn, etc.)	25	
(e) Total Closures FY 2022	SUM (a) through (d)	37
(3) Age Act Cases Pending at the End of FY 2022	Line (1)(c) minus Line (2)(e)	37

TABLE II:
INVENTORY OF AGE DISCRIMINATION ACT COMPLIANCE REVIEWS
(Carried Into and Initiated During FY 2022)

(1) Age Act Compliance Review Workload FY 2022		
(a) Compliance Reviews Carried Over from FY 2021	84	
(b) Compliance Reviews Initiated in FY 2022	29	
(c) Total Compliance Review Workload FY 2022	SUM (a) plus (b)	113
(2) Age Act Compliance Reviews Closed in FY 2022		
(a) Resolved based on insufficient evidence of a violation or no violation	34	
(b) Resolved based on agreement to implement corrective action or other change, without a specific finding of a violation	0	
(c) Resolved based on a specific finding of a violation, issuance of a Letter of Findings, and agreement to take corrective action	27	
(d) Resolved administratively or other closure (explain below)	5	
(e) Total Closures FY 2022	SUM (a) through (d)	66
* (3) Age Act Compliance Reviews Pending at the End of FY 2022	Line (1)(c) minus Line (2)(e)	47

(d) Explanation – Five (5) complaints were resolved based on other closure.

* All compliance review activities include review for purposes of the Age Discrimination Act. Please note that none of the compliance reviews conducted in FY 2022 were limited exclusively to age. Additionally, the findings during FY 2022 were not related to age.

**TABLE III:
INVENTORY OF AGE DISCRIMINATION ACT MEDIATION ACTIVITIES
(Carried Into and Initiated During FY 2022)**

(1) Age Act Complaints Referred to FMCS in FY 2022			29
(2) Age Act Complaints Not Referred to FMCS in FY 2022			
	(a) ...because referred to another mediator	0	
	(b) ...because mediated in-house	0	
	(c) ...because referred in a previous year	0	
	(d) ...because complaint was resolved through administrative closure (e.g. no jurisdiction, etc.)	12	
	(e) ...for another reason; please explain below	26	
	(f) Total Complaints Not Referred in FY 2022	Sum (a) through (e)	38

(e) Explanation - 26 cases remained open at the end of FY 2022.