



UNITED STATES DEPARTMENT OF  
AGRICULTURE

AGE  
DISCRIMINATION  
ACT REPORT  
For Fiscal Year 2020

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## UNITED STATES DEPARTMENT OF AGRICULTURE AGE DISCRIMINATION ACT REPORT

The U.S. Department of Agriculture (USDA) Fiscal Year (FY) 2020 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 2020 are summarized below and in the attached data tables<sup>1</sup>.

### 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 may be found at <https://www.govinfo.gov/app/details/CFR-2016-title7-vol1/CFR-2016-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 2020, USDA received 60 complaints citing or alleging age as a basis of discrimination (age complaints) in its Federally assisted programs. In addition, 26 age complaints were carried over from FY 2019, resulting in a total inventory of 86 age complaints for FY 2020. Table 1 below illustrates USDA’s FY 2020 age discrimination complaint activity:

**Table 1: Age Discrimination Complaint Activity**

Agency	Carried Over from FY 2019	Received in FY 2020	Total Workload
USDA Total	26	60	86

Of the total age complaints received in FY 2020, approximately 45 (75%) originated from Food and Nutrition Service (FNS) programs, 14 (23%) originated from Rural Development (RD), and 1 (.01%) originated from National Institute of Food and Agriculture (NIFA).

Specifically:

- Forty-one (91%) were filed against the Supplemental Nutrition Assistance Program (SNAP), which serves on average 22 million households each month;
- two (4%) were filed against The Emergency Food Assistance Program (TEFAP), which was appropriated \$397.1 million by Congress in FY 20;

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<sup>1</sup> See Attachment I.

- two (4%) were filed against the Commodity Supplemental Food Program (CSFP), which serves on average 692,000 participants each month.

The FNS complaint activity for FY 2020 was attributed to communication issues and customer service between program users and staff at state and local agencies receiving Federal financial assistance from FNS through SNAP. There were no patterns or practices of discrimination identified in the age-based complaints received in FY 2020. The RD and NIFA complaint activity for FY 2020 was attributed to communication issues.

In FY 2020, USDA resolved 67 (78%) of the 86 total age complaint workload. Of the 67 complaints resolved, 16 (24%) were resolved based on insufficient evidence of a violation, 1 (1%) was resolved with an agreement for corrective action/other change without a specific finding of a violation, and 50 (75%) were resolved administratively. Table 2 below illustrates USDA complaint resolution activity in FY 2020:

**Table 2: Age Discrimination Complaint Resolution Activity**

<b>Cases Resolved Based on Insufficient Evidence of a Violation</b>	<b>Cases Resolved w/ Agreement for Corrective Action/Other Change Without a Specific Finding of a Violation</b>	<b>Resolved Based on Specific Finding of Violation</b>	<b>Cases Resolved Administratively</b>	<b>Total Cases Resolved in FY 2020</b>
<b>16</b>	<b>1</b>	<b>0</b>	<b>50</b>	<b>67</b>

**III. Significant Cases**

USDA had no significant cases to report in FY 2020.

**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 46 age discrimination complaints in FY 2020 to FMCS, of which 16 (35%) were successfully mediated.

Although FNS utilized the FMCS for dispute resolution assistance, another USDA agency used internal resolution methods, such as referral to OASCR. Table 3 below illustrates USDA’s referral activity:

**Table 3: Age Complaints Referred to FMCS**

Referred to FMCS in FY 2020	Not Referred to FMCS in FY 2020
<b>46</b>	<b>29</b>

**V. Compliance Reviews**

In FY 2020, USDA agencies conducted 81 compliance reviews of agency Federally assisted programs. USDA utilized several methods to carry out compliance reviews, such as interviews, docket reviews, and site visits to assess activities and to review the effectiveness of the enforcement of civil rights laws, Executive Orders and Departmental and agency regulations. Generally, the assessment of recipients’ compliance with the Age Act was one component of their compliance with several 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 2019	Initiated in FY 2020	Total Workload in FY 2020	Total Reviews Closed in FY 2020	Reviews Pending at the End of FY 2020
<b>USDA Total</b>	<b>54</b>	<b>27</b>	<b>81</b>	<b>31</b>	<b>50</b>

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

**A. Technical Assistance**

USDA provided the following technical assistance to its recipients during FY 2020, in compliance with the Age Act:

- FNS Civil Rights staff implemented the requirements of the Age Act through trainings, meetings, conferences, and on-site reviews. FNS Regional Civil Rights Officers provided direct technical assistance as part of the compliance review process. In addition, training for regional program staff, State Directors, and State agency staff at national, regional, and tri-regional conferences reaching over 4,000 attendees was conducted by the Civil Rights Office. Program recipients received specialized training on Meal Modification requirements for the National School Lunch Program (NSLP), the Child and Adult Care Food Program (CACFP) or the Summer Food Service Program (SFSP), reaching over 600 attendees;

- Food Safety and Inspection Service (FSIS) provided technical assistance and outreach to its federally assisted State Meat and Poultry Inspection (MPI) programs in several ways. Specifically, the Agency’s “at least equal to” guidelines were made available to the State MPI programs through the Agency’s website. This guidance addresses Civil Rights requirements for State programs to include the prohibition of discrimination on the basis of age. USDA’s Civil Rights Policy Statement was also made available to the State MPI programs via the FSIS website. The policy addresses USDA’s non-discrimination policy with respect to the delivery of services. In addition, the Agency continued to ensure that the “And Justice For All” poster was posted on its website and that the website was made accessible to State MPI programs, beneficiaries, and the public. The Agency’s Civil Rights Staff also met with the State Directors on a monthly basis to discuss the States’ obligations as they pertain to nondiscrimination policies, public notification, training, and compliance with the applicable Civil Rights laws and USDA regulations, which would include the requirements of the Age Act;
- Foreign Agricultural Service (FAS) and its recipients continue to display the “And Justice For All” poster which includes “Age” as a protected basis. FAS also published the nondiscrimination statement which includes “Age” as a protected basis on all public information. FAS requires its recipients to publish the nondiscrimination statement on public information and inform its employees of the USDA nondiscrimination statement;
- NIFA presented training to the 20-member administrative council of the Western Sustainable Agriculture Resource and Education (SARE) program regarding Civil Rights Laws to include the Age Act. NIFA’s Equal Opportunity Staff developed a webinar series for 223 land grant university contacts which provides bi-monthly training on Civil Rights Compliance areas including the requirements of the Age Act; and
- Forest Service (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 a pre-award or post-award compliance review. This package contains valuable tools to help FS partners understand their roles and responsibilities under Title VI of the Civil Rights Act, Title IX of the Education Amendments Act, Age Discrimination Act, and Section 504 of the Rehabilitation Act.

## **B. Staff Training**

USDA continued to emphasize and perform the following staff training on the Age Act:

- The Annual Civil Rights Training was taken by managers, supervisors, and employees on their responsibilities pertaining to all civil rights laws, including the Age Act. The training was geared toward fostering a better understanding of how the Age Act and other civil rights laws are applicable when interacting with internal staff and customers;
- RD included Age Act in their comprehensive Civil Rights training presented to agency staff and recipients. RD Program Civil Rights training team updated its training plan work plan which included measures to train internal and external customers on the Age Act. Due to Covid-19 restrictions for travel and social distancing, no in person training was provided this year. Training was provided utilizing various sources such as PowerPoint, Video Teleconferencing (VTC), in-person, Skype, and Adobe Connect. Training was provided to new specialists, new employees and current employees in the following States: Indiana, Pennsylvania, Louisiana, Florida, Oklahoma, Washington DC, Hawaii, Mid-West States, Southern Region States, totaling over 875 attendees/participants. Trainers discussed the Age Act as it related to program delivery and applicant eligibility;
- FS Civil Rights Staff carried out Equal Opportunity training to approximately 470 FS employees nation-wide. Equal Opportunity training included policy guidance on Title VI of the Civil Rights Act, Title IX of the Education Amendments Act, Age Discrimination Act, EO 13166, Section 504 and 508 of the Rehabilitation Act, and Architectural Barriers Act;
- FNS Civil Rights staff provided training to Agency program staff identifying age as a basis applicable to all nutrition assistance programs. The Age Act is covered during the training to include scenarios to illustrate age issues;
- FAS employees continue to be provided the FAS Civil Rights and Diversity Policy Statement; Anti-Harassment Policy Statement and Procedures; USDA Non-Discrimination Statement; and Civil Rights Policy for the Department of Agriculture. All documents include a section on nondiscrimination based on age;
- FSIS staff employees attended numerous civil rights-related webinars, conferences, and trainings. In most of these instances, prohibited protected bases, to include age, were discussed; and
- Natural Resources Conservation Service (NRCS) National Employee Development Center (NEDC) Cadre offers a course entitled “Civil Rights and Program Delivery.” This course is offered to all NRCS employees at least once each quarter and has been requested as a specific training seminar by individual States. The objective of this course is to raise awareness for field level staff on the protected basis included in Title VI of the Civil Rights including age, how they can diversify their boards and councils, as well as how to collect and

analyze program data on the county level to attract non-traditional and traditionally underserved participants to NRCS programs.

### **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:

- Although NRCS did not develop and/or publish any new materials or presentations regarding the Age Act, the agency did comply with the Age Act by ensuring non-discrimination requirements were present on public materials. In addition, recipients were required to comply when providing outreach to a wide variety of communities to ensure diversity (including age) if recipient advertised or marketed their program; and
- FNS Regional Civil Rights Officers (CROs) provided direct technical assistance as part of the compliance review process. CROs conducted training for regional program staff, State Directors, and State agency staffs at national, regional, and tri-regional conferences as part of their outreach strategy, reaching over 2,300 attendees.

### **VII. Other Agency Efforts to Reduce Age Discrimination**

In FY 2020, 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;
- FS continued to be a sponsor of the Interagency Senior Pass that provides admission to Forest Service, 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 interagency 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. The pass is valid for the pass holder's lifetime; and
- FAS continued to require its commodity-based recipient's employees to be provided with the "Introduction to Civil Rights" and the "EEO and Cultural Diversity" Trainings, which includes a section on nondiscrimination based on age. FAS recipients include approximately 82 commodity-based organizations with two or more employees.

### **VIII. Analysis and Conclusion**

USDA is committed to reducing the number of age complaints. The commitment is further demonstrated through the implementation of 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. USDA continues to utilize a variety of innovative strategies to educate employees and program recipients regarding the Age Act as reflected in the decrease in the number of complaints filed in FY 2020.

USDA continues to conduct regular compliance reviews of its federally assisted programs. The practice enables USDA to monitor any alleged complaint of age discrimination, as well as, investigate practices and procedures established by recipients. USDA initiated 27 compliance reviews in FY 2020. Of the 31 compliance reviews completed during FY 2020, 5 were resolved based on insufficient evidence of a violation or no violation. While there were correctable actions found during the reviews, none were based on age.

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 2020)**

<b>(1) Age Act Complaint Workload FY 2020</b>		
(a) Age Act Complaints Carried Over from FY 2019	26	
(b) Age Act Complaints Received in FY 2020	60	
<b>(c) Total Workload FY 2020</b>	<b>SUM (a) plus (b)</b>	<b>86</b>
<b>(2) Age Act Complaints Closed in FY 2020</b>		
(a) Resolved based on insufficient evidence of a violation or no violation	16	
(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.)	50	
<b>(e) Total Closures FY 2020</b>	<b>SUM (a) through (d)</b>	<b>67</b>
<b>(3) Age Act Cases Pending at the End of FY 2020</b>	<b>Line (1)(c) minus Line (2)(e)</b>	<b>19</b>

**TABLE II:  
INVENTORY OF AGE DISCRIMINATION ACT COMPLIANCE REVIEWS  
(Carried Into and Initiated During FY 2019)**

<b>(1) Age Act Compliance Review Workload FY 2020</b>		
(a) Compliance Reviews Carried Over from FY 2019	54	
(b) Compliance Reviews Initiated in FY 2020	27	
<b>(c) Total Compliance Review Workload FY 2020</b>	<b>SUM (a) plus (b)</b>	<b>81</b>
<b>(2) Age Act Compliance Reviews Closed in FY 2020</b>		
(a) Resolved based on insufficient evidence of a violation or no violation	5	
(b) Resolved based on agreement to implement corrective action or other change, without a specific finding of a violation	13	
(c) Resolved based on a specific finding of a violation, issuance of a Letter of Findings, and agreement to take corrective action	13	
(d) Resolved administratively or other closure (explain below)	0	
<b>(e) Total Closures FY 2020</b>	<b>SUM (a) through (d)</b>	<b>31</b>
<b>(3) Age Act Compliance Reviews Pending at the End of FY 2020</b>	<b>Line (1)(c) minus Line (2)(e)</b>	<b>50</b>

**TABLE III:  
INVENTORY OF AGE DISCRIMINATION ACT MEDIATION ACTIVITIES  
(Carried Into and Initiated During FY 2020)**

<b>(1) Age Act Complaints Referred to FMCS in FY 2020</b>			46
<b>(2) Age Act Complaints Not Referred to FMCS in FY 2020</b>			
	(a) ...because referred to another mediator	0	
	(b) ...because mediated in-house	1	
	(c) ...because referred in a previous year	0	
	(d) ...because complaint was resolved through administrative closure (e.g. no jurisdiction, etc.)	15	
	(e) ...for another reason; please explain below	13	
	<b>(f) Total Complaints Not Referred in FY 2020</b>	<b>Sum (a) through (e)</b>	29

(e) Explanation - 13 cases remained open at the end of FY 2020