



UNITED STATES DEPARTMENT OF
AGRICULTURE

AGE
DISCRIMINATION
ACT REPORT
For Fiscal Year 2021

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AGE DISCRIMINATION ACT REPORT

The U.S. Department of Agriculture (USDA) Fiscal Year (FY) 2021 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 2021 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 may be found at <https://www.govinfo.gov/app/details/CFR-2020-title7-vol1/CFR-2020-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 2021, USDA received 51 complaints citing or alleging age as a basis of discrimination (age complaints) in its Federally assisted programs. In addition, 18 age complaints were carried over from FY 2020, resulting in a total inventory of 69 age complaints for FY 2021. Table 1 below illustrates USDA’s FY 2021 age discrimination complaint activity:

Table 1: Age Discrimination Complaint Activity

Agency	Carried Over from FY 2020	Received in FY 2021	Total Workload
USDA Total	18	51	69

Of the total age complaints received in FY 2021, approximately 36 (71%) originated from Food and Nutrition Service (FNS) programs, 14 (27%) originated from Rural Development (RD), 1 (2%) originated from Risk Management Agency (RMA).

Specifically:

- thirty-four (94%) were filed against the Supplemental Nutrition Assistance Program (SNAP), which serves on average 22 million households each month;
- one (3%) was filed against The Emergency Food Assistance Program (TEFAP), to which Congress appropriated \$317.5 million in FY 2020; and

¹ See Attachment I.

- one (3%) was filed against the Senior Farmers' Market Nutrition Program (SFMNP), which serves on average 726,000 participants each month.

FNS complaint activity for FY 2021 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 2021. RD complaint activity for FY 2021 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. RMA's accepted issues for their complaint were failure to provide assistance with a soybean claim and in resolving the complainant's concern on how to appeal a decision.

USDA resolved 47 (68%) of the 69 total age complaint workload in FY 2021. Of the 47 complaints resolved, 14 (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 32 (68%) were resolved administratively. Table 2 below illustrates USDA FY 2021 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 2021
14	1	0	32	47

III. Significant Cases

USDA had no significant cases to report in FY 2021.

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 37 age discrimination complaints in FY 2021 to FMCS, of which 13 (35%) were successfully mediated.

Although FNS utilized the FMCS for dispute resolution assistance, another USDA agency used internal resolution methods, such as Alternative Dispute Resolution. Table 3 below illustrates USDA's referral activity:

Table 3: Age Complaints Referred to FMCS

Referred to FMCS in FY 2021	Not Referred to FMCS in FY 2021
37	25

V. Compliance Reviews

USDA agencies conducted 99 compliance reviews of agency 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 program 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. Generally, the assessment of recipients' compliance with the Age Act was one component of several Federal civil rights laws reviewed.

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 2020	Initiated in FY 2021	Total Workload in FY 2021	Total Reviews Closed in FY 2021	Reviews Pending at the End of FY 2021
USDA Total	50	49	99	21	78

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

A. Technical Assistance

USDA provided the following technical assistance to its recipients in compliance with the Age Act:

- FNS Civil Rights staff implemented the requirements of the Age Discrimination Act through several trainings, meetings, conferences, and reviews. One example is the Civil Rights training conducted for FNS regional program staff, State Directors, and State and local agency staff at national, regional, and tri-regional conferences reaching over 4,000 state agency attendees and 300 regional program attendees. The Special Supplement Nutrition Program for Women, Infants and Children (WIC), Commodity Supplemental Food Program (CSFP) and the Senior Farmers Market Nutrition Program (SFMNP) includes an age component for eligibility and certification for program benefits which is addressed during training. WIC is available to pregnant and breastfeeding postpartum women, infants and children up to age six. Individual's age 60 and older are eligible for CSFP and SFMNP;

- Food Safety and Inspection Service (FSIS) on an annual basis, provided technical assistance and outreach to its federally-assisted State Meat and Poultry Inspection (MPI) programs in several ways. Specifically, FSIS’ “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, FSIS continued to ensure 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. FSIS’ Civil Rights Staff also met with the State Directors 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;
- RMA shared 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;
- 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 that includes “Age” as a protected basis; 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 emphasized and performed the following staff training on the Age Act:

- RD included the Age Act in their comprehensive Civil Rights annual training that was presented to agency staff and recipients during FY 21. During the fiscal year, the 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. Trainings were provided utilizing various sources such as PowerPoint, MS Teams, and Teams Live. Training was provided to employees in the following States: Kentucky, South Carolina, West Virginia, New Mexico, Arizona, Maine, Nationwide (TAT/SWM Grant

Recipients, WEP State and National Office Staff), Delaware, Indiana, Wisconsin, Missouri, and Minnesota. 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 500 employees nation-wide. Equal Opportunity training includes 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 with 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;
- National Institute of Food and Agriculture (NIFA) provided a Civil Rights Laws training presentation in AgLearn for all employees to understand the laws, including the Age Discrimination Act. The agency will make it mandatory in FY 2022, and will make it available on an annual basis; and
- 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, as well as 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:

- FS continues 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, Fish and Wildlife Service sites that charge entrance or standard amenity fees. Those eligible for 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. This pass is valid for the pass holder's life-time.

VII. Other Agency Efforts to Reduce Age Discrimination

In FY 2021, 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;
- NIFA modified its compliance review report, an internal tool used by equal opportunity staff to conduct compliance reviews, to include more specific evaluative subcomponents to assist equal opportunity specialists in determining compliance with the Age Act; and
- FAS continues 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 by the decrease in the number of complaints filed in FY 2021.

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 99 compliance reviews in FY 2021. Of the 21 compliance reviews completed during FY 2021, 16 were resolved based on insufficient evidence of a violation or no violation.

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 2021)

(1) Age Act Complaint Workload FY 2021		
(a) Age Act Complaints Carried Over from FY 2020	18	
(b) Age Act Complaints Received in FY 2021	51	
(c) Total Workload FY 2021	SUM (a) plus (b)	69
(2) Age Act Complaints Closed in FY 2021		
(a) Resolved based on insufficient evidence of a violation or no violation*	14	
(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.)	32	
(e) Total Closures FY 2021	SUM (a) through (d)	47
(3) Age Act Cases Pending at the End of FY 2021	Line (1)(c) minus Line (2)(e)	22

*9 were actual no findings, not insufficient evidence.

TABLE II:
INVENTORY OF AGE DISCRIMINATION ACT COMPLIANCE REVIEWS
(Carried Into and Initiated During FY 2021)

(1) Age Act Compliance Review Workload FY 2021		
(a) Compliance Reviews Carried Over from FY 2020	50	
(b) Compliance Reviews Initiated in FY 2021	49	
(c) Total Compliance Review Workload FY 2021	SUM (a) plus (b)	99
(2) Age Act Compliance Reviews Closed in FY 2021		
(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*	5	
(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 or other closure (explain below)	0	
(e) Total Closures FY 2021	SUM (a) through (d)	21
* (3) Age Act Compliance Reviews Pending at the End of FY 2021	Line (1)(c) minus Line (2)(e)	78

* All compliance review activities include review for purposes of the Age Discrimination Act. Please note that none of the compliance reviews conducted in FY 2021 were limited exclusively to age. Additionally, the findings during FY 2021 were not related to age.

**TABLE III:
INVENTORY OF AGE DISCRIMINATION ACT MEDIATION ACTIVITIES
(Carried Into and Initiated During FY 2021)**

(1) Age Act Complaints Referred to FMCS in FY 2021			37
(2) Age Act Complaints Not Referred to FMCS in FY 2021			
	(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.)	10	
	(e) ...for another reason; please explain below	16	
	(f) Total Complaints Not Referred in FY 2021	Sum (a) through (e)	26

(e) Explanation - 15 cases remained open at the end of FY 2021, 1 case is currently under investigation.