

Texas WIC Health and Human Services Commission

Effective January 1, 2024

Policy No. CR:05.0

Civil Rights Complaints

Purpose

To ensure that any individual who believes they have been discriminated against based on race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA, may file a complaint.

Authority

The WIC program receives funds from the U.S. Department of Agriculture (USDA). USDA policies prohibit discrimination based on race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. FNS Instructions 113-1 and its Appendix D; 7 CFR Parts 15, 15a, 15b, 246.8, and 246.21; Title IX of the Education Amendments of 1972; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Age Discrimination Act of 1975; Americans with Disabilities Act of 1990 (ADA); Civil Rights Restoration Act of 1987; and USDA Policy Memo CRD 01-2022.

Policy

The person alleging discrimination shall have the right to file a complaint within 180 days of the alleged discriminatory action to a Texas Women, Infant, and Children (WIC) local or state agency, Food and Nutrition Service (FNS) Regional Office, or the Secretary of Agriculture. The state agency (SA) shall forward the complaint to the United States Department of Agriculture (USDA). In such cases, USDA may jointly investigate with the SA or conduct a separate investigation.

Within 24 hours, the local agency (LA) shall notify the SA, by phone, of any complaint filed by an individual who believes he/she has been discriminated against based on race, color, national origin, sex (including gender identity or

Texas WIC Health and Human Services Commission

Effective January 1, 2024

Policy No. CR:05.0

sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA; and follow up the call with written correspondence. These action(s) may involve denial of participation in, suspension or termination from the Texas WIC Program, harassment, or any complaint in regard to any LA action taken by the LA which the individual believes is discriminatory. Within five business days in writing, the SA shall forward any such complaint, received either from the LA or directly from an individual, to the Regional Civil Rights Director for USDA.

For the purpose of this policy, civil rights shall encompass those rights protected by Title VI of The Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; 7 CFR Parts 15, 15a, 15b, The Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990 (ADA); and USDA Policy Memo CRD 01-2022.

Definitions

Complainant: Any person or groups of persons that allege discrimination in the delivery of program benefits and services.

Discrimination: The act of distinguishing one person or a group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Investigation: Formal gathering of facts/information by the USDA, Center for Civil Rights Enforcement.

Procedures

- I. When the LA or SA receives a complaint from any individual alleging discrimination:

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective January 1, 2024

Policy No. CR:05.0

A. The complainant shall be notified that to file a program discrimination complaint, they have a number of options. These include:

1. Filing directly with the USDA national office by going to: <https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer> and following the instructions on the page.

2. Contacting the USDA national office by phone at (866) 632-9992 or by email at program.intake@usda.gov to report the complaint or to receive a complaint form.

3. Sending the complaint in writing by mail to the USDA national office at:

US Department of Agriculture
Director, Center for Civil Rights Enforcement
1400 Independence Ave, SW
Washington, DC 20250-9410

4. Filing the complaint with the USDA Regional Office by mail or phone:

Regional Civil Rights Director
USDA/Southwest Region
Food and Nutrition Service
1100 Commerce Street Rm. 555
Dallas, Texas 75242

Phone (214) 290-9820

5. Filing the complaint with the WIC State Agency by mail, phone, or email:

Director, WIC Program
Health and Human Services
P.O. Box 149347 Mail Code 1933
Austin, TX 78714-9347

Toll-free at 1-800-942-3678

Texas WIC Health and Human Services Commission

Effective January 1, 2024

Policy No. CR:05.0

Email: wicgeneral@hhs.Texas.gov

6. Filing the complaint directly with the WIC Local Agency (see Procedure I.B)
- B. If an individual chooses to file the complaint directly with the LA, staff shall gather and document as much of the information below as possible in letter format. LA staff shall provide the letter to the complainant along with the USDA mailing address or offer to mail the letter directly to USDA on the complainant's behalf.
 1. Name, address, and telephone number of the complainant or other means of contacting the complainant;
 2. The specific location where the alleged discrimination occurred and name of the entity delivering the service or benefit;
 3. The nature of the incident or action that led the complainant to feel discrimination was a factor, and an example of the method of administration that is alleged to have a discriminatory effect on the public, potential eligible persons, applicants, or participants;
 4. The basis on which the complainant feels discrimination exists (race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity);
 5. The names, titles, and business addresses of persons who may have knowledge of the discriminatory action; and
 6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.
- C. Regardless of how the complainant chooses to file the complaint, the LA must notify the SA of the complaint by either calling the policy line at 1-877-341-4491 (press option 6, then 4, then 2) or sending an email to IRM-Policy@hhs.texas.gov within 24 hours of receipt.
- D. The SA shall forward, in writing and within five business days of receipt, any such complaint received either from the LA or

Texas WIC Health and Human Services Commission

Effective January 1, 2024

Policy No. CR:05.0

directly from an individual to the USDA Southwest Region Civil Rights Director.

- II. Complaints against an LA received by the SA shall not be reported to the LA per USDA instruction in order for USDA to determine whether or not an investigation is necessary.
- III. The SA by their own initiative through on-site reviews shall ascertain whether any action by the LA is of a discriminatory nature which would constitute a violation of the requirements of Title VI of the Civil Rights Act of 1964 and other authorities as outlined in the policy statement above and refer such information to USDA for investigation.
- IV. Anonymous complaints shall be accepted and handled as any other complaint.
- V. Throughout this process, every effort shall be made to maintain the confidentiality of the individual making the civil rights complaint. The identity of every complainant shall be kept confidential, except to the extent necessary to carry out the purpose of an investigation, hearing, or judicial proceeding.

Guidelines

Some examples of discrimination include:

- I. exclusion of eligible persons from participation in the program on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity;
- II. inequitable allocation of food to eligible persons on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity;

<p style="text-align: center;">Texas WIC Health and Human Services Commission</p>

Effective January 1, 2024

Policy No. CR:05.0

- III. issuance of food instruments or delivery of foods in a place, time, or manner that results in, or has the effect of, denying or limiting the benefits on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity;
- IV. selection of LAs for participation in the program which has the effect of, or results in, limiting the availability of the program benefits or services on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity;
- V. failure to apply the same eligibility criteria to all applicants seeking to participate in the program;
- VI. certification of applicants as eligible to receive program benefits solely on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity; and
- VII. maintenance of a waiting list that makes distinctions on the basis of race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.