



## Memorandum

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#23-076

**TO:** WIC Regional Directors  
WIC Local Agency Directors

**FROM:** Amanda Hovis, Director  
Nutrition Education/Clinic Services Unit  
Nutrition Services Section

**DATE:** December 4, 2023

**SUBJECT: Civil Rights Updates**

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This memo announces changes to the USDA Nondiscrimination Statement for WIC State Agencies and related revisions to Civil Rights policies, procedures, and resources.

### **Background**

On May 5, 2022, the U.S. Department of Agriculture, Food and Nutrition Service, issued *Memo CRD 01-2022* amending discrimination in USDA Programs on the basis of sex to include gender identity and sexual orientation. WIC State Agencies are expected to fully comply with the new requirements by December 30, 2023.

### **And Justice For All Posters**

Updated *And Justice For All (AJFA)* posters (revised May 2022) have been ordered from USDA and will be made available to order through the WIC Catalog upon arrival. The May 2022 *AJFA* poster is currently available as a PDF download in the WIC Catalog. Clinics that are unable to print posters from PDF should continue to post the September 2019 revision until printed posters are available to order from the WIC Catalog.

## **Print/Electronic Resources**

Texas WIC materials and electronic documents that include the long form of the nondiscrimination statement will be updated by December 30, 2023. Local Agencies should continue to use current materials until the updated materials are available.

## **Policy Revisions**

The State Agency has amended the following policies and procedures to align with the updated USDA requirements:

*CR:02.0 - Nondiscrimination*

*CR:04.0 - Civil Rights Compliance Reviews*

*CR:05.0 - Civil Rights Complaints*

Summary of Changes:

- Language throughout these policies expands the list of protections including gender identity, sexual orientation, and reprisal or retaliation for prior civil rights activity.
- Procedures for filing a civil rights complaint are updated.
- References to the Civil Rights policies are updated.

The effective date for these three policies is January 1, 2024. The policies will be posted on the WIC Website at: [WIC Policy & Procedures Manual | Texas Health and Human Services](#).

An updated Civil Rights training will be announced at a later date.

If you have any questions or require additional information regarding the updated Civil Rights policies, please contact the Information Response Management Group at [irm-policy@hhs.texas.gov](mailto:irm-policy@hhs.texas.gov)

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Effective January 1, 2024

Policy No. CR:02.0

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## **Nondiscrimination**

### **Purpose**

To ensure that WIC program requirements/benefits are consistently applied to all applicants/participants and the civil rights of WIC applicants/participants are protected.

### **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**

Standards used for determining eligibility and participation in the WIC Program and for the delivery of services must be the same for everyone regardless of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. All materials concerned with outreach, nutrition education, program information, or participants' rights that are distributed to the public or posted for public viewing must include a nondiscrimination statement.

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Effective January 1, 2024

Policy No. CR:02.0

## Procedures

- I. At the time of each certification, the participant or parent/guardian/caretaker of the participant must be asked to read, or be read to, and sign the Rights and Responsibilities of a participant in the Program.
- II. Copies of the "Fair Hearing" poster, in English and Spanish, must be prominently displayed on the premises in the waiting area(s). For those clinics without a waiting area, clinics must display in the reception/entrance area.
- III. The current version of the United States Department of Agriculture (USDA) poster, "And Justice for All," in English and Spanish, must be prominently displayed on the premises in the waiting and/or reception/entrance area(s). At the time of denial of participation or termination from the Program, each individual must be informed in writing of the right to a fair hearing and of the method by which a hearing may be requested. Refer to Policies: [CR:03.0 Fair Hearing Procedure for Applicants/Participants](#) and [CS:23.0 Notification of Ineligibility, Disqualification, Termination, or Expiration of Eligibility](#).
- IV. When the LA has reached its authorized caseload and initiated a waiting list of applicants, an applicant's priority must not be determined based on race, color, national origin, sex (including gender identity or sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.
- V. The following nondiscrimination statements are approved by USDA:
  - A. Long Version in English:

The WIC Program receives funds from the United States 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.

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Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete the USDA Program Discrimination Complaint Form, (AD-3027). This form is available online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, ; you may also obtain it from any USDA office by calling (866) 632-9992 or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary of Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- 1) mail:  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
- 2) fax: (833) 256-1665 or (202) 690-7442; or
- 3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

- B. Short Version in English: This institution is an equal opportunity provider.

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C. Long Version in Spanish:

El Programa WIC recibe fondos del Departamento de Agricultura de los Estados Unidos (USDA). Las políticas del USDA prohíben la discriminación por motivos de raza, color, país de origen, sexo (incluidas la identidad de género y la orientación sexual), discapacidad y edad, y las represalias por actividades realizadas en defensa de los derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en:

<https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf>,

de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a USDA por:

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- 1) correo:  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; o
  - 2) fax: (833) 256-1665 o (202) 690-7442; o
  - 3) correo electrónico: [program.intake@usda.gov](mailto:program.intake@usda.gov)
- D. Short version in Spanish: Esta institución es un proveedor que ofrece igualdad de oportunidades.
- VI. Materials, incentive items, and public service announcements (PSA) developed, produced and/or purchased by LAs must include an approved nondiscrimination statement in the appropriate language. Specific guidelines and exceptions are detailed below:
- A. A nondiscrimination statement is not required to be imprinted on Items such as cups, buttons, magnets and pens that identify the WIC program, when the size or configuration makes it impractical.
  - B. Radio and television PSAs are generally short in duration; therefore, the nondiscrimination statement does not have to be read in its entirety. Rather a statement such as "This institution is an equal opportunity provider." is sufficient to meet the nondiscrimination requirement.
  - C. Nutrition education materials and breastfeeding promotion and support materials that strictly provide a nutrition message with no mention of the WIC Program, are not required to contain the nondiscrimination statement.
  - D. The short version of the nondiscrimination statement must only be used when space prohibits the use of the long version.

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- E. The nondiscrimination statement must be in print size no smaller than the text.
  
- VII. If the LA develops materials with photographs or graphics of participants, to the extent possible, the photos/graphics must depict participants of different races, colors, national origins, sexes, ages, and disabilities to convey the message of equal opportunity. A media release form must be signed by all participants whose image is used for WIC materials.



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## **Civil Rights Compliance Reviews**

### **Purpose**

To ensure that nondiscrimination practices in all aspects of the delivery of program benefits to participants and potential participants exist; that nondiscriminatory methods in collecting race/ethnicity data are used, and that local public notification procedures of WIC and its benefits are nondiscriminatory in nature.

### **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 state agency (SA) shall perform at least once every two years as part of a regularly scheduled monitoring review or as deemed necessary by the program, an evaluation of the local agency's (LA) compliance with federal and state nondiscrimination requirements.

### **Procedures**

- I. The SA monitoring team shall review for compliance with the following civil rights policies:
  - A. [CR:01.0 Rights and Responsibilities of Applicants/Participants](#);
  - B. [CR:05.0 Civil Rights Complaints](#);

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- C. [CR:06.0 Provision of Services to Individuals with Disabilities](#);
  - D. [CR:08.0 Civil Rights Training](#);
  - E. [CR:09.0 Collection of Race and Ethnicity Data](#); and
  - F. [CR:10.0 Providing Oral and Written Program Information to Non-English or Limited English Speaking Persons](#).
- II. Any probable or identified non-compliance with the policies listed in Procedure I shall be reported to the LA for immediate corrective action.
- III. Any identified probable violation of a participant's civil rights such as, but not limited to, exclusion of persons from participation in the program, or 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 shall immediately be investigated by SA staff, and action taken in accordance with Policy [CR:05.0](#).
- IV. United States Department of Agriculture (USDA) may review an LA for civil rights compliance as part of USDA's management evaluation process of the SA. LAs are selected by USDA.

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## **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

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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:

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- 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](mailto: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

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Email: [wicgeneral@hhs.Texas.gov](mailto: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](mailto: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

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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;

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- 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.