

**Discrimination Complaint Handling****Policy No. CR- 1140.01**

Effective date: January 31, 2018

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**Policy**

The state agency and all local WIC agencies shall comply with federal law, the regulations of the United States Department of Agriculture (USDA), and USDA policies and instructions in ensuring that no person shall, on the basis of race, color, national origin, age, sex, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination, or retaliation for prior civil rights activity, in any program or activity conducted or funded by the USDA.

An individual alleging discrimination based upon federally protected classes has the right to file a complaint within 180 days of the alleged discriminatory action with a local or state agency or with the United States Department of Agriculture (USDA), Office of the Assistant Secretary for Civil Rights. The Secretary of Agriculture or his/her designee may extend this time under special circumstances. Within five (5) calendar days of receipt, all complaints of discrimination based on a federally protected class or complaints of retaliation for engaging in a protected activity, such as making a discrimination complaint, must be forwarded to the Regional Civil Rights Officer (RCRO) within the USDA Food and Nutrition Service (FNS), Southeast Regional Office for processing.

The local agency must send all complaints of discrimination to the state agency without exploration, investigation or resolution. Under no circumstances may any employee of a local agency retaliate against a WIC applicant or participant that has indicated that he or she would like to complete, or has completed, a complaint of discrimination. An applicant's or participant's rights or privileges under the WIC Program may not be interfered with because he or she has made a complaint alleging discrimination. All communication about the discrimination complaint must be treated as confidential information. All discrimination complaints must be filed and kept separate from program/customer service incidents/complaints.

The local WIC agency must provide applicants and participants with complaint filing information in a language and/or alternate format that they can understand.

**Purpose**

To ensure that applicants or participants who believe they were discriminated against because of a federally protected class, or who believe they have experienced an adverse action because they engaged in a protected activity, are provided an opportunity to file a complaint without fear of retaliation.

**Procedures for Discrimination Complaints**

- I. At initial certification, provide the applicant or participant with education about complaint filing:
  - A. Their right to file a complaint, including discrimination complaints;
  - B. How to file a complaint; and
  - C. Complaint procedures.
  
- II. At every recertification:

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- A. If a participant can state the complaint filing procedures, the local WIC agency may refer the participant to their Georgia WIC ID folder for the complaint contact information.
  - B. If unable to state understanding of complaint filing procedures, reinstruct as necessary per procedure I.
- III. WIC clinics must display the following:
- A. [“How to File a Complaint”](#) poster in all waiting rooms or the [“How to File a Complaint”](#) flyer at each point in the service delivery process.
  - B. Displaying the **“And Justice for All Poster”** in a prominent location. This poster can be obtained from the Georgia WIC Civil Rights Coordinator.
- IV. Provide the following information for individuals who wish to directly file a discrimination complaint with the United States Department of Agriculture (USDA) based on race, color, national origin, age, sex, or disability may send the complaint by mail, facsimile, or electronically to:

By Mail:

United States Department of Agriculture  
 Attn: Director, Office of the Assistant Secretary for Civil Rights  
 1400 Independence Avenue, SW  
 Washington, DC 20250-9410

By Facsimile

Facsimile: (202) 690-7442

By Electronic Submission

Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)  
 or Web-based

<https://www.usda.gov/oascr/filing-program-discrimination-complaint-usda-customer>

- V. Document complaints of discrimination on the [Incident/Complaint Form](#). Inform the complainant that discrimination complaints related to WIC federally protected classes will be forwarded to USDA-FNS, RCRO, and age complaints and age complaints involving additional protected bases will be forwarded by USDA-FNS, RCRO to the Federal Mediation and Conciliation Service (FMCS) for attempted resolution.
- VI. Obtain the key elements of the complaint and document on the [Incident/Complaint Form](#). The key elements are:
  - A. Complainant’s Name;
  - B. Complainant’s Contact Information: name, address, phone number (and other means of contacting the complainant);
  - C. The location (including county and address) where the alleged discrimination

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- occurred;
  - D. The nature of the incident or action that led the complainant to feel discrimination was a factor;
  - E. The basis of the alleged discrimination as described by the complainant;
  - F. The name (s) of the individual (s) and organization (s) involved in the alleged discrimination;
  - G. The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action; and
  - H. The date(s) during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions.
- VII. For anonymous complaints of discrimination, capture as much information as possible and handle in the same manner as any other discrimination complaint.
- VIII. Scan written complaint information from the complainant into the [Incident/Complaint Form](#).
- IX. Submit all complaints of discrimination to the State agency within 24 hours of the report being received from the complainant.
  - Electronic Submission: [GeorgiaWICCivilRights@dph.ga.gov](mailto:GeorgiaWICCivilRights@dph.ga.gov)
- X. Georgia WIC Civil Rights Coordinator or designee submits electronically all complaints of discrimination to USDA-CRD within five days of the report being received from the complainant.
- XI. The local WIC agency may but are not required to retain a copy of the for discrimination complaints; however, the state agency retains responsibility for the official copy with follow-up communication and maintenance of retention schedules. If the local agency chooses to retain a copy of the Incident/Complaint Form:
  - A. Retain in a way to protect the complainant’s confidentiality.
  - B. Treat as protected health information.
  - C. File separately from other complaints.
  - D. Destroy no later than five (5) years after the report.

**Authorities**

7 CFR § 246.8(a) and (b)

FNS Instruction 113-1

State Agency Complaints Processing Memorandum of Understanding between United States Department of Agriculture Food and Nutrition Service and Georgia Department of Public Health 9-9-2016

**Definitions/Supporting Information**

**Age** - The number of elapsed years from the date of a person's birth.

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**Color** - A person's skin complexion, pigmentation (lightness or darkness), shade, or tone.

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

**Complaint of Discrimination** - A verbal or written allegation of discrimination that indicates a disparity of treatment or services being provided to persons or groups of persons because of federally protected classes.

**Disability** - A person's physical or mental impairment that constitutes or results in a substantial impediment to one of more major life activities, or a person's record of having such impairment, or being regarded as having such an impairment.

**Discrimination** - The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on federally protected bases.

**Investigation** - Gathering of facts by the local agency, state agency, or the USDA that will refute or substantiate an allegation of discrimination.

**National Origin** - A person's place of origin, or his or her ancestor's place of origin; or a person's physical, cultural or linguistic characteristics that are associated with a national origin group.

**Protected Classes** - The federally protected bases for nondiscrimination in the WIC Program are race, color, national origin, sex, disability, or age.

**Race** - Ancestry, physical characteristics, or cultural characteristics associated with a particular race (such as hair texture, skin color, or certain facial features).

**Retaliation** - The act of intimidating, threatening, coercing, or unlawfully discriminating against any individual for filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding or hearing or any other right or privilege secured by the Civil Rights statutes and regulations enforced by FNS.

**Sex** - The biological condition of being male or female.