



Food and
Nutrition
Service

April 7, 2016

Park Office
Center

SUBJECT: Age Discrimination Act of 1975 –Mediation of Complaints

TO: All Regional Civil Rights Directors

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This memorandum provides guidance on the processing of discrimination complaints under the Age Discrimination Act of 1975 (Age Act), as amended, 42 U.S.C. 6101 *et seq.* The Age Act is one of the Federal civil rights laws enforced by FNS CRD that prohibits age discrimination in programs or activities receiving Federal financial assistance. Federal regulation, 45 CFR 90, provides general, government-wide rules for the implementation of the Age Act. Last year, the Department issued 7 CFR 15c establishing the policy of non-discrimination on the basis of age in USDA programs and activities and reinforcing the applicability of the policy to each FNS recipient.

These regulations require that all complaints alleging Age Act violations be referred for mediation. Mediation involves the use of an impartial, third-party mediator, who assists the complainant and respondent in reaching terms that both parties find satisfactory, without imposing a decision upon the parties. Mediation offers a faster and more creative resolution of complaints through informal dispute resolution methods, while minimizing expenses to the parties. All of the information obtained in the course of mediation is kept confidential.

Participation in mediation is not optional, but mandatory for both the complainant and the State Agency against whom the complaint is filed. 45 CFR 90.43(c)3; 7 CFR 15c.7(d). State Agencies are not required to reach an agreement or settle the dispute, but must participate in the effort to reach a resolution on a good faith basis.

For these reasons, it is important that every State Agency administering FNS-assisted programs promptly refer all complaints to FNS CRD that allege unlawful discrimination on the basis of age, regardless of whether other bases are alleged. FNS CRD will then forward the complaints to the Federal Mediation and Conciliation Service (FMCS) upon receipt. Concurring investigations of the complaint should not be conducted while FMCS performs mediation.

This guidance memorandum should be shared with Program Directors in your region and any State Agency deemed appropriate to facilitate cooperation with FMCS and/or FNS CRD staff for compliance with Age Act requirements. If you have any questions, please contact Harriet Kornegay, Harriet.Kornegay@fns.usda.gov.

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