Directive

Civil Rights Complaints for School Food Authorities

Purpose

The Local Education Agency (LEA) receives Federal financial assistance to operate the National School Lunch Program, the School Breakfast Program or the Special Milk Program. Therefore, the LEA bears a responsibility to ensure compliance with Title IV of the Civil Rights Act of 1964, as amended, and certain other Federal civil rights laws and regulations. The Georgia Department of Education School Nutrition Division supports the LEA in achieving compliance. This directive sets forth basic standards for processing and tracking covered complaints of discrimination and identifies resources and guidance available to support the civil rights program.

Scope

This directive provides guidance on handling complaints whether written or verbal that allege discrimination in violation of Federal civil rights laws. This generally includes complaints that allege discrimination on the basis of race, color, national origin, sex, disability, age and reprisal or retaliation for prior civil rights activity. Complaints that allege a person with a disability did not receive a modification or accommodation or was denied access or that a person with limited English proficiency did not receive appropriate language assistance are also included.

This directive does not apply to complaints of discrimination in employment under Title VII of the Civil Rights Act of 1964, as amended.

Cooperation and Coordination

The LEA, Georgia Department of Education (GaDOE) School Nutrition Division (SND), and the

U.S. Department of Agriculture Office of Civil Right (OCR) will cooperate in tracking, processing, and resolving complaints of discrimination that fall within the scope of this directive. The parties will make every effort to resolve complaints of discrimination at the earliest possible stage.

The LEA will timely notify OCR upon receipt of a discrimination complaint that falls within the scope of this directive and send a copy the GaDOE SND.

General Obligations

1. GaDOE SND will
    a. Refer the complaint to OCR.
    b. Maintain a collaborative relationship with the LEA to support its civil rights complaint processing.

c. Provide technical assistance and training to support the LEA's civil rights program.

d. Notify the LEA in writing when the OCR undertakes the investigation of a complaint within the scope of this directive. GaDOE will also notify the LEA of the complaint related records, documents, files and information to be forwarded to OCR.

e. Notify the LEA of the disposition of any complaint within the scope of the directive investigated by the OCR if OCR does not provide.

2. LEA will
   a. Refer the complaint to OCR.

   b. Maintain a confidential record of civil rights complaints separate from program complaints. This record is often referred to as a log. The Civil Rights Complaint log may be in paper or electronic format and will record, at a minimum, complainant(s) name, contact information, the location (including county), nature, and date of the alleged discrimination. It will also contain the name of the individuals(s) and organizations(s) alleged to have engaged in discrimination, the date of referral to the OCR, the findings of any investigation, and a description of the final disposition of the complaint including any corrective action planned or taken.

   c. Provide communication assistance, other modifications or accommodations and/ or alternative formats when communicating with individuals who have limited English proficiency (LEP), individuals with disabilities, or individuals who are illiterate.

   d. Comply with all FNS regulatory requirements and policy guidance. This includes posting USDA's authorized non-discrimination statement, And Justice for All poster, and the accompanying information on how to file a complaint at the program delivery site.

   e. Notify complainants that they may also file a complaint directly with the USDA and provide them with the USDA Discrimination Complaint Form.

   f. Cooperate with all OCR and GaDOE SND civil rights compliance reviews and with any investigation into civil rights complaints. This includes providing documents requested as part of the compliance review or an investigation within the timeframe requested, but no more than 60 days of the date of the request and making LEA employees available for witness interviews.

   g. Provide training to all current and newly hired staff involved in complaint processing. Training topics shall include, at a minimum, Federal statutes and regulations that prohibit discrimination and ensure equal opportunity to participate in School Nutrition Programs.

Complaints Referred to OCR for Processing

1. A written complaint should simply be forwarded as received. If the complaint is verbal, the USDA Discrimination Complaint Form should be completed and mailed. Verbal complaints should be written up by the person to whom the complaint is made. Every effort should be made to have the complainant provide the information on the USDA Discrimination Complaint Form.
2. Complaints should be filed within 180 days of the adverse action. However, an SFA will accept those where the adverse action occurred over 180 days prior to the complaint filing.
3. Refer complaints to OCR for processing within 5 calendar days of receipt of the complaint. Forward all complaints to OCR at:

USDA
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410
Fax 202-690-7442
Email program.intake@usda.gov

4. Send a copy of the complaint to the assigned GaDOE SND Area Consultant.
5. Maintain a copy of any correspondence regarding the complaint for at least 5 years plus the current school year after the date the LEA is notified the complaint is closed.
6. Provide necessary documents, evidence and LEA position statement regarding complainant's allegations to OCR within the timeframes established by FNS guidance or within a reasonable time if OCR has not identified a timeframe.
7. Make its employees available to OCR to be interviewed as necessary during investigations, including for purposes of providing sworn testimony and clarifying general information.
8. Grant OCR or GaDOE SND access to LEA facilities, and complaint, communications, records and other systems, as necessary during investigations.
9. Participate in attempts to resolve the complaint.

Additional Procedures for Age Complaints

Federal regulations implementing the Age Discrimination Act of 1975 require that all complaints alleging violations of the Act be referred for mediation.

1. The LEA will forward all complaints alleging unlawful discrimination on the basis of age, regardless of whether other bases are alleged, to the OCR within 5 working days after receipt. A copy of the complaint must also be sent to the assigned GaDOE SNP Area Consultant. OCR will refer the complaint to the Federal Mediation and Conciliation Service (FMCS) for mediation within 10 calendar days of initial receipt.
    a. If FMCS mediation is successful, FMCS will notify OCR so that the case can be closed. The LEA will receive notification of the closure of the complaint.

b. If mediation is unsuccessful, FMCS will refer the complaint back to OCR. OCR will investigate allegations related to age as well as any other discrimination alleged in the initial complaint.

2. The LEA will participate in mediation on a good faith basis to resolve complaints alleging unlawful discrimination on the basis of age, in accordance with 45 CFR § 90 and 7 CFR § 15c(7)(d). The representative designated by the LEA to participate in mediation must be a neutral party. A person named in the complaint is not a neutral party.

Resources

USDA Program Discrimination Complaint Form

References

7 CFR 210.15