

DFCS Civil Rights and ADA/Section 504 Complaint Process

I. Purpose

These procedures have been established to redress any violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d (“Title VI”), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, (“Title IX”), Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 (“Section 504”), Title II of the Americans with Disabilities Act of 1990 (“ADA”) and the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et seq.*, the Age Discrimination Act of 1975, 42 USC § 6101 *et seq.*, (“Age Act”), the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), 7 USC § 2011 *et seq.*, and provisions, directives, and implementing regulations that govern DFCS’ administration of child welfare and public assistance programs. To the extent these procedures conflict with applicable laws, regulations, or directives, such laws, regulations, and directives shall be controlling. This complaint Process does not apply to complaints of discrimination in employment under Title VII of the Civil Rights Act of 1964, as amended.

II. Right to File a Civil Rights or ADA/Section 504 Complaint

All Georgia Division of Family & Children Services’ (“DFCS”) customers have a right to file a complaint of discrimination on the basis race, color, national origin, disability, age, sex and in some cases religion or political beliefs, or for reprisal or retaliation for engaging in prior civil rights activity. The United States Department of Agriculture (“USDA”) and the U.S. Department of Health and Human Services (“HHS”) prohibit reprisal or retaliation for prior civil rights activity. No staff or contractor of the Department of Human Services (“DHS”) shall retaliate against a complainant or his/her designee for filing a civil rights complaint or against anyone testifying or assisting in an investigation or engaging in any other protected Civil Rights activity. Furthermore, utilization of this complaint procedure is not a prerequisite to filing a complaint with the USDA or the United States Department of Health and Human Services (“HHS”).

DFCS must ensure that public notice(s) of right to file a discrimination complaint are posted in accordance with federal regulations and policy guidance. For example, the USDA Nondiscrimination Statement, including a joint USDA-HHS statement for SNAP, is located at <https://www.fns.usda.gov/fns-nondiscrimination-statement>. The USDA also requires display of the And Justice for All Poster in prominent locations where there is a USDA presence and where it may be read by customers.

Note: A “complainant,” as used in this document, is a person who makes a verbal or written complaint alleging unlawful discrimination. DFCS is prohibited from disclosing Personally Identifiable Information (PII) or Protected Health Information (PHI) to unauthorized individuals. Therefore, DFCS will not disclose or allow access to the complainant’s PII or PHI without the appropriate authorization. In situations where a companion or other individual requests a reasonable modification or communication assistance on behalf of a person with a disability, DFCS will contact the person with a disability or authorized representative to clarify the request.

III. Denials of Request for Reasonable Modifications under the ADA/Section 504

A request for Reasonable Modification, auxiliary aid, or service for qualified individuals with disabilities may only be denied by the DFCS Division Director or his/her designee.

IV. Procedure for Filing Civil Rights and ADA/Section 504 Complaints

A. Filing program complaint of discrimination with Federal Agencies

Notify the public that any person or representative may file a verbal or written complaint of discrimination with HHS or the USDA by mail, fax, or e-mail. See below for information on where to file your Civil Rights or ADA/Section 504 complaint:

1. (HHS) U.S. Department of Health and Human Services,
200 Independence Avenue, S.W., Room 509F HHH Bldg.,
Washington, D.C. 20201
fax: (202) 619-3818
email: OCRmail@hhs.gov
2. (USDA) U.S. Department of Agriculture, Food and Nutrition Service,
1320 Braddock Place, Room 334,
Alexandria, VA 22314
call: (833) 620-1071
fax: (833) 256-1665 or (202) 690-7442;
email: FNSCIVILRIGHTSCOMPLAINTS@usda.gov.

The USDA Civil Rights Complaint Form may be accessed online at:

English form -

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

Spanish (En Español) form –

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

B. Filing Complaints of Discrimination in Child Welfare and Public Assistance Programs with DHS/DFCS

Any person or representative also may file a verbal or written complaint alleging unlawful discrimination **(including if a customer disagrees with decisions made regarding requests for reasonable modifications, auxiliary aids or services, or if a customer believes DFCS failed to provide a requested reasonable modification or communication assistance under the ADA/Section 504)** by contacting his or her local DFCS office or one of the following DHS/DFCS offices:

1. **For discrimination complaints based on national origin (e.g., failure to provide an interpreter for persons with limited English proficiency), forward to:**

Georgia Department of Human Services
Program Manager, Limited English Proficiency and Sensory Impairment Program
47 Trinity Avenue, SW
Atlanta, GA, 30334
(877) 423-4746*

2. **For complaints based on race, color, national origin (non-LEP), age, sex, religion, political beliefs or disability (including complaints about decisions made regarding requests for auxiliary aids or services, communication assistance and reasonable modifications under the ADA/Section 504), forward to:**

Division of Family and Children Services
DFCS Civil Rights, ADA/Section 504 Coordinator
47 Trinity Avenue, SW
Atlanta, GA 30334
(877) 423-4746*

***Individuals who have a hearing or speech disability may call 711 for an operator to connect with us.**

C. Communication Assistance

Customers have a right to free communication assistance. DHS/DFCS staff must provide interpreters and translated information when communicating with individuals with limited English proficiency and auxiliary aids and services for individuals with disabilities.

V. Time Period for Submitting Complaints

A complaint is filed timely if it is filed within 180 calendar days of the alleged discriminatory act or if it alleges the discriminatory act is ongoing. The Secretary of Agriculture or Secretary of Health and Human Services may accept complaints filed after the 180-calendar day deadline if the complainant can provide a 'good cause' explanation for the delay. Therefore, the DFCS Civil Rights Program will forward any complaint that does not meet the 180-calendar day deadline to the appropriate federal agency for consideration. The time for filing a complaint with HHS or USDA is not governed by this policy.

A. Submission of Written Complaints

Written complaints may be submitted to DHS/DFCS via hand-delivery, facsimile, e-mail, US mail, or other delivery service utilizing DFCS Form 724 (i.e., the DFCS Civil Rights, ADA/Section 504 Complaint Form). DFCS staff are required to provide a Form 724 to a DFCS customer who requests such form. The DFCS Form 724 is not required to make a written complaint. A complaint may also be submitted via letter or e-mail if that is the complainant's/representative's preferred method of communication. Additionally, notify the complainant that they may file a complaint with the USDA or with HHS.

B. Submission of Verbal Complaints

If a complainant or representative makes the allegations verbally or in person, the DFCS staff person to whom the allegations are made must write up the elements of the complaint using DFCS Form 724. At a minimum, the DFCS staff person must obtain the following information:

1. Name, address, and telephone number or other means of contacting the person alleging discrimination;
2. The location and name of the county, regional or other office delivering the service or benefit;
3. The nature or the incident or action that led the complainant or his/her representative to feel

- that discrimination was factor, and an example of the method of administration that is having a disparate effect on the public, potentially eligible persons, applicants, or participants;
4. The basis on which the complainant believes discrimination exists;
 5. The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action; and
 6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

NOTE – The DFCS staff person to whom the allegations of discrimination are made are required to assist a person or his/her representative (if requested) in navigating through the complaint process, which includes completing the DFCS Form 724 and providing information in alternative formats and languages upon request. DFCS must ensure translated complaint forms, qualified interpreters, and auxiliary aids and services are available free of charge to DFCS customers and their companions.

VI. Civil Rights and ADA/Section 504 Complaint Processing Oversight and Referral

DHS and DFCS are responsible for ensuring all discrimination complaints filed with DFCS for any USDA or HHS program, including complaints filed with the DHS LEP/SI Program, are processed in accordance with the USDA and HHS complaints processing regulations, directives and guidance.

This subsection describes the process for Civil Rights, ADA/Section 504 complaint intake, complaint referrals, processing, investigations, and decisions (including a complainant's right to appeal). The process for Office of Family Independence ("OFI") and child welfare related complaints is described below:

A. Complaint Intake

All Civil Rights and ADA/Section 504 complaints must be forwarded within five (5) business days of receipt to the DFCS Civil Rights, ADA/Section 504 State Coordinator. Complaints must be logged in a manual or computerized tracking system and kept separate from program complaints. Anonymous complaints must be processed as any other complaint, to the extent feasible, based on available information. The DFCS Civil Rights, ADA/Section 504 Coordinator or designee will review a complaint to see if it contains an allegation of discrimination on the basis of a protected class or retaliation or reprisal. Complaints that do not contain such allegations forwarded to the appropriate office that logs and processes program complaints.

B. Acknowledging a Complaint (For USDA SNAP Program Only)

Within five (5) business days of receipt of a complaint, the DFCS Civil Rights, ADA/Section 504 Coordinator or his/her designee must send an acknowledgment letter to the complainant. At a minimum, the acknowledgment letter must inform the complainant of any planned action, the timeframe for completing the investigation, and request additional information, if needed.

C. Complaint Referrals

1. **USDA FNS Commodity Supplemental Food Program (CSFP) and The Emergency Food Assistance Program (TEFAP).**

DHS/DFCS must refer all complaints filed in the CSFP and TEFAP to the FNS Regional Civil Rights Officer for processing within five (5) calendar days of receipt of the complaint.

2. Complaints Alleging Discrimination Based on Age in HHS and USDA Programs

Federal regulations implementing the Age Discrimination Act of 1975 require that all complaints alleging violations of the Act be referred for mediation. DFCS must forward all complaints alleging age discrimination, regardless of whether other bases are alleged, to the USDA Food and Nutrition Service (FNS) Civil Rights Division (CRD), Regional Civil Rights Officer, or to HHS Office of Civil Rights for processing.

Forward all complaints alleging unlawful discrimination on the basis of age, regardless of whether other bases are alleged, to the HHS Regional Office for Civil Rights or to the FNS Civil Rights Division, Regional Civil Rights Officer within five (5) working days after receipt.

If the Federal Mediation and Conciliation Service ("FMCS") mediation is successful, FMCS will notify the appropriate federal agency so that the case can be closed. DFCS will receive notification of the closure of the complaint. If mediation is unsuccessful, FMCS will refer the complaint back to the USDA or to HHS for processing through the established complaint processing system.

DFCS must 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 C.F.R. § 15c(7)(d). The representative designated by DFCS to participate in mediation must be a neutral party. A person named in the complaint is not a neutral party.

D. Complaint Processing and Investigation

1. Overview

Each decision issued by DHS/DFCS shall include a notice of appeal rights. The appeal rights language appears under Section E.

Except for complaints involving limited English proficiency (LEP), within (14) business days of receipt of a complaint, the DFCS Civil Rights, ADA/Section 504 Coordinator will work with State, Regional/District or County management to assign a qualified staff person to investigate the case. The assigned investigator must complete the investigation within 45 business days of the date of the complaint. The investigator must gather and evaluate facts that will either support or refute the complainant's allegation(s), ensuring that all relevant sources of information are investigated, which includes a review of the complainant's case file. Limited English proficiency complaints will be investigated by the DHS Program Manager for Limited English Proficiency.

The investigator must send the investigative findings to the DFCS Civil Rights, ADA/Section 504 Coordinator, who will evaluate the report for completeness and soundness of conclusions. If the findings do not contain sufficient information to support the investigative conclusion, the DFCS Civil Rights, ADA/Section 504 Coordinator will

return the findings to the investigator with a time frame for revising the findings.

Within 90 days of accepting the complaint for investigation, DFCS will draft a letter of decision that applies the appropriate law to the relevant facts **(and will follow the requirements of FNS Instruction 113-1 for investigating SNAP complaints)**. If the complaint is regarding an OFI program and the ADA/Section 504, the DFCS ADA/Section 504 District Coordinator will issue a final written decision. If the complaint is regarding limited English proficiency, the DHS LEP Program Manager will issue the final written decision. For all other Civil Rights complaints, the DFCS Civil Rights, ADA/Section 504 Coordinator will issue the final written decision.

NOTE: For SNAP, see FNS Instruction 113-1, Section XV for specific information regarding collection of evidence in a discrimination complaint. For SNAP complaints, prior to issuing a decision letter to the complainant, DHS DFCS must provide the FNS Regional Civil Rights Officer (RCRO) with the draft decision letter and investigative report for the purpose of oversight and concurrence (FNS Instruction 113-1, XVI.C.8). If the FNS RCRO does not concur, FNS RCRO will note any grounds for non-concurrence and return to DFCS so that the issues identified may be addressed. Upon FNS RCRO concurrence, DFCS will send the final letter of decision to the complainant within 20 calendar days. Decision letters will include the complainant's right to appeal to the Secretary of Agriculture. (See FNS Instruction 113-1, XVI.C.6). If an investigation is not conducted, the State agency shall provide an explanation in its report to the FNS Regional Civil Rights Officer (FNS Instruction 113-1, XVII.D.4.d).

2. Additional Processing for OFI ADA/Section 504 Complaints

OFI ADA/Section 504 complaints will be reviewed and investigated by the DFCS ADA/Section 504 District Coordinator. The DFCS ADA/Section 504 District Coordinator must send the investigative findings to the DFCS Civil Rights, ADA/Section 504 State Coordinator who will evaluate the report for completeness and soundness of conclusions. If the findings do not contain sufficient information to support the investigative conclusion, the DFCS Civil Rights, ADA/Section 504 State Coordinator will return the findings to the County Director DFCS ADA/Section 504 State Coordinator with a time frame for revising the findings. The DFCS Civil Rights, ADA/Section 504 State Coordinator will review the decision before it becomes final. The DFCS Civil Rights, ADA/Section 504 District Coordinator will issue a final written decision on complaints.

E. Complainant's Right to Appeal DHS/DFCS' Final Decision Regarding a Civil Rights or ADA/Section 504 Complaint:

The DFCS Civil Rights, ADA/Section 504 State Coordinator, the LEP Program Manager (for LEP complaints), or the DFCS ADA/Section 504 District Coordinator (for ADA/Section 504 complaints) must send the complainant a letter advising him/her of the investigative findings. The letter must also inform the complainant that if he/she does not concur with the results of the investigation, an appeal may be filed with the U.S. Department of Agriculture's Office of the Assistant Secretary for Civil Rights or the U.S. Department of Health and Human Services' Office for Civil Rights. The letter must also include the Appeal Rights for each office.

In each final decision letter, DHS/DFCS will notify the Complainant of his/her right to appeal

such decision (including decisions on ADA/Section 504 complaints made regarding requests for auxiliary aids and services or reasonable modifications or failing to provide a requested auxiliary aid and services or reasonable modification). Appeals information must be provided in an alternative format or language that the Complainant can understand.

1. Appeal Language for USDA SNAP Complaints.

To appeal decisions involving DFCS services, programs, or activities funded by the U.S. Department of Agriculture (e.g., SNAP), the Complainant may appeal to the Office of the Assistant Secretary for Civil Rights at the U.S. Department of Agriculture within 90 days of receiving the final decision letter from DFCS. The following language will be included in all decision letters issued unless a modification is necessary to provide notice in an accessible format that the Complainant can understand:

“If you disagree with this decision, you may appeal to the Office of the Assistant Secretary for Civil Rights at the U.S. Department of Agriculture. You must do so within 90 days of receiving this letter. To appeal this decision, write to:

Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence, Ave, SW, STOP 9410
Washington, DC 20250-9410

Fax: 1 (833) 256-1665 or (202) 690-7442

e-Mail: program.intake@usda.gov

2. Appeals Language for HHS Complaints.

To appeal decisions involving DFCS services, programs, or activities funded by the U.S. Department of Health and Human Services (“HHS”) (e.g., child welfare and Medical Assistance(e.g., Medicaid and TANF), the Complainant may appeal to the HHS Office for Civil Rights within 90 days of receiving the final decision letter from DFCS. The appeal should be addressed to:

Mail: Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

e-Mail: OCRComplaint@hhs.gov

F. Resolution of Noncompliance/Corrective Actions:

Upon completion of the investigation, the investigator will work with County and/or District or Regional Management to recommend corrective action (if appropriate). If it is determined that the complainant was discriminated against on the basis of one of the protected classes, or that DFCS personnel violated state or federal requirements, the DFCS Civil Rights, ADA/Section 504 Coordinator will work with State, Regional and County management and DFCS’ SNAP Quality Assurance team (where applicable) to ensure that a corrective action plan is prepared, implemented, and monitored to address the violations. DFCS will abide by applicable USDA and HHS regulations and directives

when ensuring the required corrective actions are achieved in a timely manner.

G. Tracking Complaints and Maintaining Complaint Files:

The State Civil Rights Office shall maintain a central file on all Civil Rights and ADA/Section 504 complaints processed by DFCS. The DHS LEP program shall maintain a central file on all DFCS LEP complaints processed by DHS. If maintained, county complaint files must be stored separate from program complaints in a central location for review by DFCS' Quality Assurance Unit, the State Civil Rights Office or federal Civil Rights offices. Civil Rights and ADA/Section 504 complaints filed in any USDA program must be recorded under a separate and distinct logging system per FNS Instruction 113-1, Section XVII. All Civil Rights complaints must be kept confidential and only accessible by authorized individuals.

VI. Other Procedures

The procedures provided herein are in addition to, and not in lieu of, any other remedies available under federal or state law.

REFERENCES:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
- Section 504 of the Rehabilitation Act of 1974 (29 USC § 794)
- Title IX of the Education Amendments of 1972, Public Law 92-318, as amended (20 U.S.C. § 1681 *et seq.*)
- Age Discrimination Act of 1975 (42 USC § 6101)
- Title II of the Americans with Disabilities Act (ADA) of 1990 (42 USC § 12132) at 28 C.F.R. Part 35 and 28 C.F.R. § 35.107
- Title II of the ADA Amendments Act of 2008 (Public Law 110-325)
- U.S. Department of Health and Human Services regulations at 45 C.F.R. Parts 80, 84, and 91 USDA Food and Nutrition Service Civil Rights Compliance and Enforcement (FNS Instruction 113-1)
- The Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program, 7 U.S.C. 2011 *et seq.* U.S. Department of Agriculture regulations at 7 C.F.R. Part 15, 7 C.F.R. Part 272, 7 C.F.R. Part 250, 7 C.F.R. Part 251, and 7 C.F.R. Part 247
- R.H. et al. v. Rawlings et al., CAFN: 1:17-CV-01434-TWT (N.D. Ga. 2019) (Consent Order, entered on June 4, 2019)

This list is not exclusive.