



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

BARBARA C. GUINN
Acting Commissioner

Administrative Directive Memorandum

Section 1

Transmittal:	24-ADM-01
To:	Social Services District Commissioners
Issuing Division/Office:	Employment and Income Support Programs
Date:	January 10, 2024
Subject:	United States Department of Agriculture (USDA) Civil Rights Requirements and Revised Non-Discrimination Statement
Suggested Distribution:	SNAP Directors and TA Directors; Finance, Legal Affairs, and Local Systems Directors
Contact Person(s):	SNAP Policy Bureau at (518) 473-1469 or SNAPbureau@otda.ny.gov
Attachments:	Attachment 1 - Revised USDA-FNS Non-Discrimination Statement - English Attachment 2 - Revised USDA-FNS Non-Discrimination Statement - Spanish

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
06-ADM-05 02-LCM-07 03-LCM-03 04-LCM-07 15-LCM-09 19-ADM-12 20-ADM-03		Part 303 348.3 356.3 357.1 387.2	SSL 331(3) 29 USC 794 42 USC 2000(d) et seq. 7 CFR 272.2 and 272.6	SNAP Source Book sections 3,4 and 9	FNS 113-1

Section 2

I. Summary

On May 5, 2022, the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS), Civil Rights Division, issued a memorandum on *Bostock v Clayton County*, 140 S. Ct. 1731 (2020) and its application to USDA FNS Programs, including the Supplemental Nutrition Assistance Program (SNAP). The memorandum informed FNS program recipients that the prohibition of discrimination based on sex in Title IX and the Food and Nutrition Act includes gender identity and sexual orientation. The revised USDA Non-Discrimination Statement (NDS) includes new language to conform with the memorandum, as well as updated contact information to file a USDA Program Discrimination Complaint Form (AD-3027).

II. Purpose

The purpose of this ADM is to inform districts of USDA FNS SNAP Civil Rights requirements regarding the posting of the attached federally approved revised NDS on district websites, local equivalent forms and on any materials or in locations where the NDS currently appears, and to inform districts about the federal requirements to include gender identity and sexual orientation as protected classes.

III. Background

In June 2020, the United States Supreme Court held in *Bostock*, that employment discrimination based on gender identity or sexual orientation constitutes prohibited discrimination based on sex under Title VII of the Civil Rights Act of 1964.

On January 20, 2021, President Biden issued Executive Order (EO) 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* (86 CFR 7023). The EO set out the federal administration's policy that all persons are entitled to dignity, respect, and equal treatment under the law, no matter their gender identity or sexual orientation. EO 13988 references the Supreme Court's holding in *Bostock* and states that *Bostock's* reasoning applies with equal force to other laws that prohibit sex discrimination, and such laws prohibit discrimination on the basis of gender identity or sexual orientation, "so long as the laws do not contain sufficient indications to the contrary." EO 13988 directs federal agencies to review regulations, policies, and any other agency actions that prohibit sex discrimination to determine whether they are consistent with the policy set forth in EO 13988.

In light of *Bostock*, FNS determined that discrimination based on gender identity and sexual orientation can constitute prohibited sex discrimination under Title IX of the Education Amendments of 1972 and the Food and Nutrition Act.

For SNAP, the federally protected classes are race, color, national origin, sex (including gender identity and sexual orientation), religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Districts should be aware that with respect to public accommodations, New York State law affords class protection based on race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex disability, marital status, or status as a victim of domestic violence.

IV. Program Implications

The revised USDA NDS includes new language and contact information to file the AD-3027, USDA Program Discrimination Complaint Form. The revised USDA NDS can be found in 56 languages including the top twelve most commonly spoken non-English languages in New York State at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>.

The NDS has been updated on the SNAP page on the OTDA website at: <https://otda.ny.gov/programs/snap/#contact>.

The USDA NDS has been updated on LDSS-4988, published April 2023.

The USDA NDS update is pending on the next publication of the following SNAP forms:

LDSS-2921, LDSS-3174, LDSS-4148A, LDSS4826, LDSS-4826A, LDSS-5166

V. Required Action

Districts are reminded of the requirement to provide equal access to SNAP and SNAP-related programs and services consistent with federal regulations 7 CFR 249.7 and 272.6, and with guidance provided in the publication *Civil Rights Compliance and Enforcement* (FNS 113-1).

Districts are reminded that the revised USDA NDS must appear on district websites, local equivalent forms and on any materials or in locations where the NDS currently appears.

As a result of the revision to the USDA NDS, the “And Justice For All” (AJFA) poster is also being updated. The current version of the AJFA poster (revised 9/19) must continue to be prominently displayed in all local SNAP offices until a revised poster is provided. OTDA has placed a statewide order for the new AJFA poster with USDA. The timeline for when OTDA will receive the new AJFA poster is undetermined; however, when received, they will be distributed to district offices by mail. Upon receipt of the new AJFA poster, all previous versions of the AJFA poster must be immediately removed and replaced with the new poster. The PDF version of the revised AJFA poster can be accessed at: [And Justice for All Poster \(azureedge.us\)](https://azureedge.us). However, the PDF version must not be printed or displayed as a poster.

VI. Systems Implications

N/A

VII. Additional Information (Optional)

N/A

VIII. Effective Date

Immediately

Issued By:

Name: Valerie T. Figueroa

Title: Deputy Commissioner

Division/Office: Employment and Income Support Programs/Office of Temporary and Disability Assistance