

November 27, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-98

The purpose of this All County Letter is to notify County Welfare Departments about changes in appeal rights for civil rights complaints.



KIM JOHNSON
DIRECTOR

CALIFORNIA HEALTH & HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
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GAVIN NEWSOM
GOVERNOR

November 27, 2023

ALL COUNTY LETTER NO. 23-98

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CIVIL RIGHTS COORDINATORS

SUBJECT: **CHANGES TO CIVIL RIGHTS APPEAL LANGUAGE**

REFERENCE: [28 CFR § 35.160\(b\)\(1\)](#); [BOSTOCK V. CLAYTON COUNTY \(2020\)](#)
[140 S. CT. 1731](#); [EXECUTIVE ORDER NO. 13988](#), "PREVENTING
AND COMBATING DISCRIMINATION ON THE BASIS OF
GENDER IDENTITY OR SEXUAL ORIENTATION." 86 FED. REG.
7023 (JAN. 20, 2021); UNITED STATES DEPARTMENT OF
AGRICULTURE (USDA) POLICY MEMO CRD 01-2022; USDA
NONDISCRIMINATION STATEMENTS; UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
ANNOUNCEMENT OF PROPOSED RULE TO STRENGTHEN
NONDISCRIMINATION IN HEALTH CARE; HHS
NONDISCRIMINATION NOTICE; CALIFORNIA DEPARTMENT OF
SOCIAL SERVICES (CDSS) MANUAL OF POLICIES AND
PROCEDURES (MPP) DIVISION 21; ALL COUNTY LETTER
(ACL) 18-111; ACL 19-45

The purpose of this All County Letter (ACL) is to communicate changes to required appeal language for civil rights complaints. Changes described in this letter must be implemented without delay.

Pursuant to existing policy, County Welfare Departments (CWD) must inform civil rights complainants, in writing, of the result of their complaint. ([MPP § 21-203.241](#); [MPP § 21-203.251](#); [ACL 18-111](#).) CWDs must notify complainants of their right to appeal a CWD decision to the California Department of Social Services (CDSS). ([MPP § 21-203.261](#).) In addition, CWDs must notify complainants of their rights to appeal to or file a new complaint with the federal government. For CalFresh complaints, CWDs must notify complainants of their right to appeal a CWD decision to the United States Department of Agriculture (USDA). ([MPP § 21-203.262](#).) For complaints involving programs other than CalFresh, CWDs must notify complainants of their right to file a civil rights

complaint with the United States Department of Health and Human Services (HHS). ([MPP § 21-203.263](#).) These requirements apply whether or not a complaint investigation was conducted.

Changes to Appeal Rights

CWDs are required to make the following changes when informing complainants of their appeal rights.

- Summary letters must inform CalFresh complainants that they have 90 days to file an appeal with the USDA. This supersedes the information in MPP § 21-203.262 that complainants have 30 days to file an appeal with the USDA.
- Complainants may appeal CalFresh complaints to the USDA based on the following protected categories: 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. This supersedes the list of protected categories specified in MPP § 21-203.262.
- Complainants may file discrimination complaints with HHS based on the following protected categories: race, color, national origin, age, disability, or sex (including pregnancy, sexual orientation, and gender identity). This supersedes the list of protected categories specified in MPP § 21-203.263.

The more detailed lists of protected categories above are based on the 2020 Supreme Court decision affirming that discrimination on the basis of sexual orientation or gender identity is necessarily also discrimination on the basis of sex for purposes of applying Title VII of the Civil Rights Act of 1964. ([Bostock v. Clayton County \(2020\) 140 S. CT. 1731](#).) Following this decision, federal agencies were directed to assess and revise existing regulations, policies, and guidance as necessary to prevent and combat discrimination on the basis of gender identity or sexual orientation, resulting in HHS and USDA's clarifications of the protected category of sex in their nondiscrimination statements. ([Executive Order No. 13988, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation."](#) 86 Fed. Reg. 7023 (Jan. 20, 2021); [USDA Policy Memo CRD 01-2022](#); [HHS Announcement of Proposed Rule to Strengthen Nondiscrimination in Health Care](#); see also [USDA nondiscrimination statements](#) and [HHS nondiscrimination notice](#).)

USDA Appeal Rights

CWDs must use the following language, including the mailing address, when informing CalFresh complainants of their right to appeal to the USDA. This language has been approved by the USDA Food and Nutrition Services Civil Rights Division and may not be modified. USDA appeals must be filed in writing.

If you disagree with the County's decision regarding discrimination in the CalFresh program based on 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, 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:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights, Mail Stop 9410
1400 Independence Avenue S.W., Room 1330, South Building
Washington, DC 20250
SM.OASCR.ProgramAdjudication@usda.gov

Other Guidance

CWDs may use mail or email to meet the requirements in MPP § 21-203.241 and MPP § 21-203.251 to inform complainants, in writing, of the complaint outcome. CWDs shall also make letters available in alternate formats as requested by the complainant due to a disability. ([28 CFR § 35.160\(b\)\(1\)](#); [MPP § 21-115.41](#); See [ACL 19-45.V.](#))

For complaints closed due to the complainant's failure to participate or the complainant's withdrawal of the complaint, the requirements in MPP § 21-203.261 and MPP § 21-203.262 do not apply, as no CWD decision is produced for these complaints. However, CWDs must still communicate the complainant's right pursuant to MPP § 21-203.263 to file their complaint with HHS, if applicable given the program(s) involved in the complaint.

Refer to the enclosed attachment for sample appeal language. As stated above, CWDs may not modify the USDA appeal language found in this letter (also found in the attachment). CWDs may modify CDSS appeal language and HHS complaint language if modifications adhere to the requirements of this letter and MPP § 21-203.

If you have any questions or need additional guidance regarding the information in this letter, contact the Civil Rights Section at (916) 654-2107 or at crb@dss.ca.gov.

Sincerely,

Original Document Signed By

KATHY YANG
Deputy Director
Office of Equity

Attachment

Appeal Rights

For all programs, if you disagree with the County's decision (including if the county did not investigate your complaint), you may appeal to the California Department of Social Services Civil Rights Section within **30 calendar days** of this letter. To appeal this decision, contact:

California Department of Social Services Civil Rights Section
744 P Street, M/S 9-7-041
Sacramento, CA 95814
crb@dss.ca.gov
(866) 741-6241

If you disagree with the County's decision regarding discrimination in the **CalFresh** program based on 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, 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:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights, Mail Stop 9410
1400 Independence Avenue S.W., Room 1330, South Building
Washington, DC 20250
SM.OASCR.ProgramAdjudication@usda.gov

For **programs other than CalFresh**, you have the right to file a civil rights complaint based on race, color, national origin, disability, age, or sex (including pregnancy, sexual orientation, and gender identity) with the U.S. Department of Health and Human Services Office for Civil Rights electronically through the [Office for Civil Rights Complaint Portal](#) or by mail or phone. Complaints must be filed within **180 days** of the date of discrimination. To file your complaint, contact:

U.S. Department of Health and Human Services
Office of Civil Rights
200 Independence Avenue, S.W.
Suite 515F, HHH Building
Washington, DC 20201
(800) 368-1019, (800) 537-7697 (TDD)
OCRMail@hhs.gov
[Complaint forms](#) are available online.