



NINE AGENCY RULE GUIDANCE

Pursuant to 7 C.F.R. § 2.25 (a)(1)(3), an authority delegated from the Secretary of Agriculture to the Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights (OASCR), has the authority to provide overall leadership, coordination, and direction for the United States Department of Agriculture's (USDA) programs of civil rights, including program delivery, compliance, and equal employment opportunity, by enforcing, among other things, related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate.

On February 14, 2021, President Joseph R. Biden, Jr., signed Executive Order 14015, *Establishment of the White House Office of Faith-Based and Neighborhood Partnerships*, 86 FR 10007 (Executive Order 14015). Executive Order 14015 sought to “organiz[e] more effective efforts to serve people in need across the country and around the world, in partnership with civil society, including faith-based and secular organizations.” Executive Order 14015 further emphasized the importance of strengthening the ability of such organizations to deliver services in partnership with Federal, State, and local governments and with other private organizations, while adhering to all governing laws. Executive Order 14015 also revoked Executive Order 13831, which prompted the 2020 Final Rule.

Key Provisions Restored by Executive Order 14015, Establishment of the White House Office of Faith-Based and Neighborhood Partnerships:

Executive Order 14015 reestablishes important religious liberty protections for beneficiaries of federally funded social services.¹ Under 7 CFR § 16, a faith-based organization is eligible, on the same basis as any other organization, to access and participate in any USDA assistance programs for which it is otherwise eligible. Neither the USDA awarding agency nor any State or local government or other intermediary receiving funds under any USDA awarding agency program or service shall, in the selection of service providers, discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization. The Nine Agency Rule reestablishes important religious liberty protections for beneficiaries of federally funded social services.

Pursuant to the Nine Agency Rule, “any organization that receives direct or indirect Federal financial assistance shall not, with respect to services supported in whole or in part with Federal financial assistance, or in their outreach activities related to such services, discriminate against a current or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, an

¹ *Establishment of the White House Office of Faith-Based and Neighborhood Partnerships*, 86 FR 10007, E.O. 14015 of Feb. 14, 2021.

organization that participates in a program funded by indirect financial assistance need not modify its program activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program.”²

“Organizations that receive USDA direct assistance under any USDA program may not engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, as part of the programs or services funded by USDA direct assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services supported with USDA direct assistance, and participation must be voluntary for beneficiaries of the programs or services supported with such USDA direct assistance. The use of indirect Federal financial assistance is not subject to this restriction. Nothing in this part restricts USDA's authority under applicable Federal law to fund activities that can be directly funded by the Government consistent with the Establishment Clause.”

The following are key provisions of the Nine Agency Rule:

- **Notification:** Recipients, including recipients, administering USDA programs must notify beneficiaries or prospective beneficiaries of their right to be free from discrimination based on religion. Mission Areas and agencies will also inform beneficiaries and prospective beneficiaries of the right to report violations of these protections (including denials of services or benefits) by an organization by contacting or filing a written complaint with USDA's OASCR.
- **Non-Discrimination:** All covered social service programs, whether supported by vouchers or grants, may not discriminate against beneficiaries based on their religion.
- **Alternative Providers:** The USDA awarding agency may determine that this written notice must also inform beneficiaries and prospective beneficiaries about how to obtain information from the awarding agency about other federally funded service providers in their area that provide the services available under the applicable program.
- **Faith-Based Providers:** The Final Rule maintains protections for faith-based providers, allowing them to compete equally with secular organizations for awards while retaining their religious character.

These regulations aim to safeguard Americans from religious discrimination in social services and reinforce awareness of religious liberty protections.

² *Partnerships With Faith-Based and Neighborhood Organization*, 89 FR 15671 (effective date: April 3, 2024).

OASCR Guidance to Mission Areas and agencies implementing Executive Order 14015 is as follows³:

- Title VI protects individuals from being discriminated against based on race, color, or national origin by entities receiving federal financial assistance from USDA (e.g., state and local agencies, educational institutions, non-profits, and other non-federal entities).
- Mission Areas and agencies must issue the Notice to beneficiaries and prospective beneficiaries provided by OASCR, as required by the Final Rule, and work with partners at the state and local level and with Tribal Nations to train and provide technical assistance in implementing this Final Rule to ensure the maximum amount of beneficiaries and potential beneficiaries receive the notice and are informed of the changes required under the Executive Order 14015 and Final Rule.
- Mission Areas and agencies may also issue written notice to inform beneficiaries and prospective beneficiaries about how to obtain information from the awarding agency about other federally funded service providers in their area that provide the services available under the applicable program.
- Where appropriate, Mission Areas and agencies will review their regulations and/or guidance to ensure Mission Area and agency regulations and guidance are consistent with the Final Rule, including guidance to state more directly that agencies will not, in their selection of service providers, discriminate on the basis of an organization or entity's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization such as one that has the same capacity to effectively provide services.
- Mission Areas and agencies will revise regulations and/or guidance to make clear that Mission Areas and agencies will continue to consider organizations' requests for religious accommodations, on a case-by-case basis, in accordance with the United States Constitution and Federal statutes and will not disqualify any organization from participating in a program simply because that organization has indicated it may request a religious accommodation. *See Religious Exemption Under the Education Amendments Act of 1972.*
- Mission Areas and agencies will customize and craft training opportunities in the best manner possible for those affected and inform providers receiving direct Federal financial assistance they should provide notice to beneficiaries and prospective beneficiaries of certain protections, including protection from discrimination on the basis of religion.

³ OASCR acknowledges the need to provide the essential discretion to enable USDA Agencies to customize and craft notice and opportunities in the best manner possible for those affected. This guidance is not all inclusive and allows the Agencies to the flexibility needed to properly implement this Final Rule.

- Mission Areas and agencies will inform recipients receiving direct Federal financial assistance should a program beneficiary object to the religious character of a faith-based provider, the State or governmental entity will undertake reasonable efforts to identify and refer the beneficiary to another federally funded programs in their area, contact for a federal office, or in some instances a State agency or other governmental entity that might be administering a federally funded social service program.
- Beneficiaries of indirect Federal financial assistance (such as vouchers, certificates, or other Government-funded means that the beneficiaries might use to obtain services at providers of their choosing) are no longer required to have at least one adequate secular option for the use of the indirect Federal financial assistance.
- Mission Areas and agencies will inform program recipients not to require beneficiaries or prospective beneficiaries to attend or participate in any explicitly religious activities offered by the organization, and any participation by beneficiaries or prospective beneficiaries in such activities must be purely voluntary.
- Mission Areas and agencies will inform program recipients to separate in time or location any privately funded explicitly religious activities from activities supported by direct Federal financial assistance.
- Mission Areas and agencies will monitor compliance with this guidance in conjunction with regular oversight of Mission Area and agency programs and services.

OASCR will implement Executive Order 14015 as follows:

Pursuant to 7 CFR § 16.4(c)(1)(iv), “Beneficiaries or prospective beneficiaries may report violations of these protections (including denials of services or benefits) by an organization by contacting or filing a written complaint with USDA’s Office of the Assistant Secretary for Civil Rights.”

Effective July 2, 2024, OASCR will process complaints filed by USDA program beneficiaries supported by direct and indirect Federal financial assistance, against the USDA Mission Area or agency granting financial assistance to an organization or entity. Recipients will provide beneficiaries notice of their right to file written complaints of discrimination based on religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.⁴

⁴ 7 CFR § 16.4, Partnerships with Faith-Based and Neighborhood Organizations, Vol. 89, No. 43 (March 4, 2024).

Pursuant to 7 CFR § 16.4, Part III.A.3, complaints of discrimination based on religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice received will be processed using the USDA's existing discrimination program complaint process and applicable timeframes.

OASCR will offer training sessions and technical assistance to Mission Areas and agencies. Mission Areas and agencies may then provide customized training to further assist program recipients. Training will cover the Final Rule's provisions, non-discrimination requirements, and best practices.

USDA Mission Areas and relevant agencies are instructed to forward complaints of religious discrimination filed by program beneficiaries, to the Office of the Assistant Secretary for Civil Rights, Center for Civil Rights Enforcement, Program Complaint Division by mail, fax, or e-mail at:

Mail:

United States Department of Agriculture
Director, Center for Civil Rights Enforcement
1400 Independence Avenue, SW
Washington, DC 20250-9410

Fax: (202) 690-7442

Email: program.intake@usda.gov

OASCR requests Mission Area and agency leadership to review and distribute the attached Guidance to all USDA recipients. This Notice is required to be provided to program beneficiaries by recipients who receive USDA funding, no later than Tuesday, July 2, 2024. Implementation of the Nine Agency Rule will include coordinated efforts by OASCR, USDA Mission Areas and agencies, and their recipients to ensure equity in programmatic delivery and services.

Enclosures: Notice from USDA Recipients to Beneficiaries and Prospective Beneficiaries

cc: USDA Chiefs of Staff
USDA Mission Area and agency Civil Rights Directors

USDA IS AN EQUAL OPPORTUNITY PROVIDER, EMPLOYER AND LENDER.