



Food and
Nutrition
Service

DATE: May 5, 2022

MEMO CODE: CRD 02-2022

Braddock
Metro Center

SUBJECT: Questions and Answers Related to CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update

1320
Braddock
Place
Alexandria
VA 22314

TO: Regional Directors
All Food and Nutrition Service Programs
All Regions

State Directors
All Food and Nutrition Service Programs
All State Agencies

Issuing Agency/Office:	FNS/Civil Rights Division
Title of Document:	Questions and Answers Related to Application of <i>Bostock v. Clayton County</i> to Program Discrimination Complaint Processing – Policy Update
Document ID:	Not Applicable
Z-RIN:	Not Applicable
Date of Issuance:	May 5, 2022
Replaces:	Not Applicable
Summary:	This memorandum provides clarification on questions related to the prohibitions against discrimination based on sex in all FNS programs found in Title IX of the Education Amendments of 1972; the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP) (7 USC § 2011 et seq.); and related implementing regulations prohibiting discrimination on the basis of gender identity and sexual orientation.

The Food and Nutrition Service (FNS), Civil Rights Division (CRD) is issuing this memorandum to provide clarification on questions related to CRD 01-2022 *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update*, published on May 5, 2022.

FNS's interpretation of discrimination on the basis of sex in programs or activities receiving Federal financial assistance includes discrimination on the basis of sexual orientation and discrimination on the basis of gender identity. The following questions and answers were developed to assist State Agencies and program operators with the implementation of this Policy Update.

Questions and Answers

I. General

1. What next steps must be taken by State Agencies and program operators?

State Agencies and program operators will have to update their program discrimination complaint processing procedures for allegations related to services and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and gender identity discrimination are processed as complaints of prohibited sex discrimination. Additionally, State Agencies and program operators will need to update their Nondiscrimination Statements and order new *And Justice for All* posters that reference gender identity and sexual orientation discrimination. The updated FNS Nondiscrimination Statement will be available in multiple languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>. Additional guidance will be issued by FNS CRD specifically addressing these two topics.

2. When should program operators and State Agencies update the Nondiscrimination Statement and the *And Justice for All* posters?

Although CRD 01-2022 *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update* is effective immediately, additional guidance is forthcoming. We will work with State Agencies and program operators on the timing for updating documents and materials to include the updated Nondiscrimination Statement. Items that can be changed without further guidance should be updated as soon as possible (websites for example). Additional guidance for timelines and implementation will be provided in a separate memorandum.

3. What should program operators and State Agencies do with old *And Justice for All* posters?

Currently, updated *And Justice for All* posters are in production and will be available in the coming months. State Agencies and program operators must continue to display the applicable version of the poster dated September 2019, until updated *And Justice for All* posters are ordered and received. Guidance on poster ordering and display is forthcoming.

4. What if a State Agency or program operator does not currently have an *And Justice For All* poster displayed?

Contact your Regional Civil Rights Officer for additional information and guidance.

5. Who is my Regional Civil Rights Officer?

See regional contact list at <https://www.fns.usda.gov/fns-regional-offices>

6. How do you request a religious exemption with the U.S. Department of Agriculture?

Under U.S. Department of Agriculture (USDA) regulation [7 CFR 15a.205](#), educational institutions and other entities may claim an exemption from the provisions of Title IX by submitting a written declaration to the Secretary of Agriculture identifying the provisions that conflict with a specific tenet of the religious organization.

USDA's Postal Service mailing address is:
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

7. Will a finding be issued for non-compliance with the updated *And Justice for All* poster and Nondiscrimination Statement?

During the grace period, findings will not be issued if the State Agency is unable to display the updated *And Justice for All* poster and incorporate the Nondiscrimination Statement on documents and materials. Once the grace period(s) have expired for ordering and displaying posters and reprinting documents, a State agency or program operator must demonstrate efforts taken to comply with the guidance provided before a determination is made to issue a finding of noncompliance. Additional guidance on timelines and implementation will be provided in a separate memorandum.

Please note there will not be a grace period for accepting and processing discrimination complaints based on sexual orientation and gender identity in FNS programs.