

**U.S. DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250**

**SECRETARY'S MEMORANDUM 1076-023
March 9, 2018**

Strengthening Civil Rights Management Functions

1. INTRODUCTION

USDA's motto is to "Do right and feed everyone." To meet this goal and to faithfully carry out the work of the American people, we must demonstrate daily our unshakeable commitment to the Constitution, to civil rights, and to human dignity. Unlawful discrimination contradicts all of USDA's foundational responsibilities—integrity, consistency, dedication, fairness, mutual respect and professional excellence—and it will not be tolerated. Every employee, applicant, and program recipient is entitled to be treated with dignity, equality, and respect. Therefore, every USDA employee, no matter their title or role, is accountable for respecting Constitutional rights and complying with the civil rights laws of the United States.

USDA has already taken several significant steps to promote such accountability by reducing bureaucratic barriers to civil rights. For example, over the past year, we have substantially reduced the number of days required for investigation of administrative employment complaints. We are now meeting legal requirements and, more importantly, demonstrating that complaints of discrimination are taken seriously. Each accepted complaint is promptly investigated and carefully considered on the merits. However, more is required. Therefore, we are taking the following steps to strengthen the critical civil rights management functions at the Department, its Mission Areas, and its subcomponent agencies and offices.

2. PURPOSE

The purpose of this Secretary's Memorandum (SM) is to strengthen civil rights management functions across the Department and to streamline the delivery of equal employment opportunity (EEO) and program complaint services at the Mission Area level. Consistency is critical to deliver the effective and efficient service we have pledged to the American public and to ensure the fairness, transparency, and accountability we owe our applicants for employment, program recipients, and fellow USDA employees. The Department of Agriculture has eight Mission Areas: Farm Production and Conservation; Food, Nutrition, and Consumer Services; Food Safety; Marketing and Regulatory Programs; Natural Resources and Environment; Research, Education, and Economics; Rural Development; and Trade and Foreign Agricultural Affairs. The goal of this policy is to guarantee that USDA functions as one team and speaks with one voice on all civil rights issues affecting USDA's program recipients, customers, applicants, and employees. To

ensure integrity, consistency, and fairness, the Office of the Assistant Secretary for Civil Rights (OASCR) will supervise a central and consistent approach to civil rights enforcement; set the highest standards for complaint processing; ensure compliance with civil rights laws and the First Amendment; provide standards for transparent reporting of civil rights data; and coordinate unified approaches to addressing harassment allegations, processing reasonable accommodation requests, and delivering special emphasis programs. In the absence of a statutory grant of authority to a specific agency or office, OASCR shall coordinate all civil rights activities of the Department.

3. ACTIONS ORDERED

To ensure integrity, consistency, and fairness:

- a. USDA will eliminate inefficiencies in delivering civil rights services at the agency and staff office level, thereby resulting in improved civil rights management. Under the realignment, a Civil Rights Director and appropriate Equal Opportunity staff will be aligned as follows:
 - (1) Departmental Administration, staff offices, and Trade and Foreign Agricultural Affairs will share civil rights resources;
 - (2) Each remaining Departmental Mission Area will consolidate its sub-agency resources at the Mission Area level; and
 - (3) The Office of the Inspector General (OIG) shall have an independent Civil Rights Director.
- b. OASCR will supervise all Departmental civil rights activities, including those of the Mission Areas, Departmental Administration, staff offices, and to the extent appropriate and lawful, OIG. The delegations for the Assistant Secretary for Civil Rights shall be revised as necessary to reflect OASCR's direct responsibility in providing civil rights policy direction to Mission Area and other Civil Rights Directors and Civil Rights staff and conveying the clear guidance of the Office of the Secretary on all civil rights issues.
- c. OASCR will implement a timely, fair, transparent, and consistent approach to addressing all EEO or program complaints, including those based on discrimination, harassment, and retaliation that shall be adopted by all Mission Areas, Departmental Administration, staff offices and, to the extent appropriate and lawful, OIG.
- d. OASCR will direct an effective, robust, and compliant mandatory civil rights training program for all staff, including Mission Areas, Departmental Administration, staff offices and, to the extent appropriate and lawful, OIG.
- e. OASCR will monitor and evaluate the implementation of the reasonable accommodation process by the Mission Areas, Departmental Management, staff offices and, to the extent

appropriate and lawful, OIG.

- f. OASCR will not address matters that OHRM handles exclusively, such as setting human resources policy, investigating and evaluating harassment allegations for misconduct, and reviewing and advising on requests for reasonable accommodations, but will serve as a collaborative partner with OHRM on all appropriate issues affecting civil rights policy, implementation, and compliance.
- g. OASCR will request the Mission Areas to provide a list of all civil rights positions on-board (full-time, part-time, or collateral duty) within 30 days from issuance of this Memorandum to determine staff needs to effectuate the purpose of this Memorandum.
- h. Mission Areas, Departmental Administration and the Staff Offices will implement all organizational changes necessary to effectuate the civil rights staff realignments indicated above based upon the direction of OASCR. When conducting any reorganizations, the Mission Areas, Departmental Administration and Staff Offices will adhere to all relevant Departmental Directives, including Departmental Regulation 1010 and the corresponding Congressional notification requirements.

4. USDA DEPARTMENTAL DIRECTIVES TO BE AMENDED, REVISED, OR RESCINDED

- a. This Memorandum supersedes Departmental Regulation (DR) 4300-005, *Agency Civil Rights Programs* (January 14, 1998) in its entirety. Prior delegations of authority, administrative regulations, and other directives not inconsistent with the provisions of this Memorandum shall remain in full force and effect.
- b. Within 60 days from the issuance of this Secretary's Memorandum, I require OASCR, OHRM, and the Office of the Chief Information Officer (OCIO) to provide me with proposed plans of action for ensuring the following policy issuances are in accordance with the stated objectives:
 - (1) Departmental Manual (DM) 4300-001, *EEO Complaint Processing Procedures* (July 20, 2001) will reflect more recent equal employment opportunity guidance and policy in DR 4300-007, *Processing Equal Employment Opportunity (EEO) Complaints of Discrimination* (July 12, 2016).
 - (2) DM 4300-002, *Reasonable Accommodation Procedures* (July 5, 2002) will be reviewed to determine if it should be consolidated with DR 4300-008. If it will be maintained separately, it requires updating to reflect changes to the *Americans with Disabilities Act Amendments Act of 2008*, and to provide clearer Departmentwide procedures for reassignments.
 - (3) DM 4330-001, *Procedures for Processing Discrimination Complaints and Conducting Civil Rights Compliance Reviews in USDA Conducted Programs and*

Activities (October 18, 2000) will be reviewed. If it will be maintained, it requires revision to: include authority to process complaints filed under Section 508 of the *Rehabilitation Act of 1973*; reflect changes in DR 4330-003, *Nondiscrimination in USDA-Conducted Programs and Activities* (October 5, 2015) to provide better instructions for intake; formalize DR 1521, *Legal Review and Execution of Settlement Agreements* (January 4, 2018); and include a legal sufficiency review standard.

- (4) DR 1312-002, *Cooperation with the Office of the Special Counsel, Merit Systems Protection Board* (July 17, 1986) will clarify lines of authority for representing USDA before the Merit Systems Protection Board and to update the whistleblower protections to be in accordance with recent statutory changes.
- (5) DR 4030-001, *Section 508 Program* (September 8, 2014) will be consistent with the modified 7 CFR Part 15e procedures on complaint processing and to reflect the updated roles and responsibilities of OASCR and the OCIO.
- (6) DR 4230-002, *Special Emphasis Programs* (June 4, 2009) will emphasize our foundational responsibilities—integrity, consistency, dedication, fairness, mutual respect, and professional excellence—and stress the importance of including a “OneUSDA” philosophy of customer service and employment.
- (7) DR 4300-002, *Federal Equal Opportunity Recruitment Program Plan* (October 18, 1984) will include the barrier analysis reporting requirement.
- (8) DR 4300-004, *Civil Rights Impact Analysis* (October 17, 2016) will set appropriate parameters for reorganizations, directives, and other actions requiring a civil rights impact analysis.
- (9) DR 4300-008, *Reasonable Accommodations for Employees and Applicants with Disabilities* (March 9, 2000) will reflect changes to the *Americans with Disabilities Act Amendments Act of 2008* and to provide clearer Departmentwide procedures for telework, remote work, and reassignments.
- (10) DR 4330-002, *Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from USDA* (March 3, 1999) will be revised to reflect more recent developments in the law and to harmonize with the Title VI and Title IX Common Rules.
- (11) Because I am issuing an updated Civil Rights statement concurrent with this Memorandum, DR 4300-006, *Civil Rights Policy for the Department of Agriculture* (June 30, 2000) will be rescinded.
- (12) Equal Employment Opportunity Commission’s Management Directive 715 (MD-715) has updated the guidance provided in DM 4310-001, *Instructions for Preparing AEP Plans, Accomplishment Reports, and Updates* (July 24, 1991).

Because the guidance does not need to be duplicated in our directives, DM 4310-001 will be rescinded immediately.

5. INCIDENTAL TRANSFERS

The Assistant Secretary for Administration, the Chief Financial Officer, and the Director, Office of Budget and Program Analysis are authorized to approve such transfers of funds, personnel, employment authority, space, records, property, and incidentals as may be necessary to implement the provisions of this Memorandum.

6. EFFECTIVE DATE AND TERMINATION

This Memorandum is effective April 11, 2018, and will remain in effect for 1 year from the effective date, or until such earlier time as the Department's published delegations of authority have been revised to incorporate the provisions of this Memorandum.

/s/ SONNY PERDUE
SECRETARY OF AGRICULTURE