

# Civil Rights Training

FMNP / SFMNP

Civil Rights Division  
USDA Food and Nutrition Service



# Civil Rights Program Authorities

- Title VI of the Civil Rights Act of 1964
- Civil Rights Restoration Act of 1987
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Americans with Disabilities Act Amendments Act of 2008
- Title IX of the Education Amendments of 1972
- Age Discrimination Act of 1975
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996
  - DOJ Memorandum dated 1/28/99, “Policy Guidance Document – Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs.”

# Civil Rights Program Authorities

- 7 CFR Part 15: Nondiscrimination...
- 7 CFR Part 15a: ...Education
- 7 CFR Part 15b: ...Disability
- 7 CFR Part 16: Equal Opportunity for Religious Organizations
- 7 CFR Part 246 (WIC)
- 7 CFR Parts 248 (FMNP) & 249 (SFMNP)

# Civil Rights Program Authorities

- 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State/Local Government Services
- 28 CFR Part 42: Nondiscrimination in Federally Assisted Programs
- Executive Order 13166 – (LEP)
- USDA Departmental Regulation 4330-2
- USDA Departmental Regulation 4330-3
- FNS Instruction 113-1; Appendix D

# What is Discrimination?

Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions based on a protected class.

# Protected Bases

- ▶ Applicants or participants allege different treatment based on protected class(es).
- ▶ Protected classes WIC:
  - Race
  - Color
  - National origin
  - Age
  - Sex\*\*
  - Disability\*\*

# Assurances

- “To qualify for Federal financial assistance, an application that the entity to receive financial assistance will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.”
- A Civil Rights assurance statement must be incorporated in all agreements between Federal & WIC State agencies (FNS Form 339), WIC State & local agencies, and local agencies & subrecipients (if applicable).

(FNS Instruction 113-1, Section X)

# Public Notification

All FNS programs must include a public notification system.

# Elements of Public Notification

## ➤ **Program Availability**

Inform applicants and potentially eligible persons of the availability of the program and the steps necessary for participation.

## ➤ **Rights and Responsibilities**

Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities.

## ➤ **Complaint Information**

Advise applicants and participants at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures.

## ➤ **Nondiscrimination Statement**

All information materials and sources, including Web sites, used by FNS, State agencies, or other subrecipients to inform the public about FNS programs must contain a nondiscrimination statement. The statement is not required to be included on every page of the program Web site. At a minimum, the nondiscrimination statement or a link to it must be included on the home page of the program information.

# Methods of Public Notification

WIC State and local agencies must:

- Make program information available to the public upon request;
- Prominently display the “And Justice for All” poster;
- Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs;
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information;
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons.

# Nondiscrimination Statement

At a minimum, the Nondiscrimination Statement should be on:

- ▶ Application Form(s)
- ▶ Notification of Eligibility or Ineligibility
- ▶ Notice of Adverse Action Form
- ▶ Program (Home) Web Page
- ▶ Public Information, including Program literature

# Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

# Nondiscrimination Statement (Spanish)

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el [Formulario de Denuncia de Discriminación del Programa del USDA](#), (AD-3027) que está disponible en línea en: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; o
- (3) correo electrónico: [program.intake@usda.gov](mailto:program.intake@usda.gov).

Esta institución es un proveedor que ofrece igualdad de oportunidades.

# Nondiscrimination Statement

- ▶ USDA Nondiscrimination Statement (NDS)
  - Short versions
    - This institution is an equal opportunity provider.
    - Esta institución es un proveedor que ofrece igualdad de oportunidades. (Spanish)
    - \*Can be used in special circumstances only
  - Translations
    - Other languages are forthcoming

# “And Justice For All” Poster

- ▶ Display posters in a prominent location for all to view
- ▶ New designation AD-475A
- ▶ Poster reflects 2015 NDS and new graphic
- ▶ State Agency has supplies – No local Reproduction



# Racial/Ethnic Data Collection

- As a means of monitoring civil rights compliance, State agencies shall establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits.
  - Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.
  - Data should be collected at the point of application and retained at the service delivery area.
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# Racial/Ethnic Data Collection

- State and local agencies should compare their participant data with potentially eligible persons within their service areas.
  - If disparities or areas of underrepresentation occur, it will be necessary to investigate the causes for it;
  - Provide additional outreach as needed;
  - Assist with selection of compliance reviews.

# Race and Ethnic Categories

## Two Question Format

1. Ethnicity (must select one of the following)
  - *Hispanic or Latino*
  - *Not Hispanic or Latino*
2. Race (one or more of the following)
  - *American Indian or Alaskan Native*
  - *Asian*
  - *Black or African American*
  - *Native Hawaiian or Other Pacific Islander*
  - *White*

# LEP and Bilingual Requirements

Title VI, 7 CFR 246.8(c) of WIC Regulations, Section VII of FNS Instruction 113-1, Executive Order 13166, and their implementing regulations require State agencies, local agencies, or other subrecipients to take reasonable steps to assure “meaningful” access to their programs and activities by persons with Limited English Proficiency (LEP).

# LEP and Bilingual Requirements

## Factors to consider in addressing LEP:

1. Number or proportion of LEP persons served or encountered in the eligible population;
  2. Frequency with which LEP individuals come in contact with the program;
  3. Nature and importance of the program, activity, or service provided by the program;
  4. Resources available and their costs.
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# LEP and Bilingual Requirements

## Population data sources

- US Census Data  
✓ <http://www.census.gov/2010census/data/>
- American Community Survey  
✓ <http://www.census.gov/acs/>
- Migration Policy Institute's National Center on Immigrant Integration Policy  
✓ <http://www.migrationpolicy.org/>
- Department of Justice site: LEP.GOV  
✓ <http://www.lep.gov/maps/>

# Disability Discrimination

What is the definition of “disability?”

- A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- Major life activity means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
  - \* functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions. (ADA Amendments Act of 2008)

# Disability Discrimination

- Sections 504 and 508 of the Rehabilitation Act of 1973
  - prohibit discrimination based on disability in programs or activities receiving Federal financial assistance.
- Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A
  - prohibits discrimination on the basis of disability in all services, programs and activities provided to the public by State and local governments.
- These Civil Rights laws protect persons with disabilities who apply for or participate in all FNS-funded programs.

# Disability Discrimination

- As programs and offices modernize, it is imperative that websites, including State and local agency websites, and online application systems are readily accessible to and useable by persons with visual impairments and other disabilities.
- In addition, programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
- Women, infants or children must be accommodated if medically or nutritionally warranted  
(7 CFR 246.10(c) - *Nutrition tailoring*).

# Equal Opportunity for Religious Organizations

7 CFR Part 16:

Ensures a level playing field for the participation of faith-based organizations and other community organizations in USDA programs.

# Verification of Citizenship or Immigration Status

This issue should never give rise to discrimination.



# Compliance Reviews

- Examine the activities of State agencies and subrecipients to determine Civil Rights compliance;
- FNS Civil Rights and Program staff review State agencies.
  - FNS staff and State agencies review local agencies. Local agencies review their subrecipients, if applicable.
- Significant findings must be provided in writing to the reviewed entity and to FNS.

# Compliance Reviews

There are three types of compliance reviews:

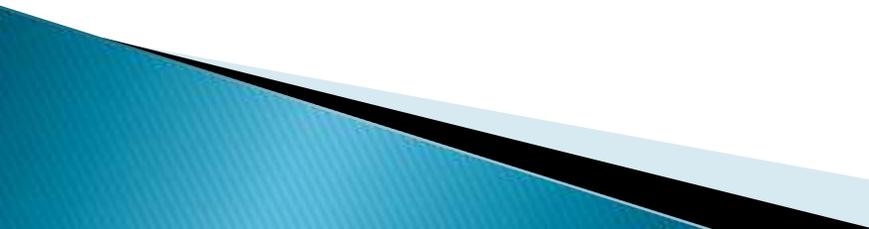
1. Pre-Award Compliance Reviews
  2. Routine (Post-Award) Compliance Reviews
  3. Special Compliance Reviews
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# Pre-Award/Pre-Approval Compliance Reviews

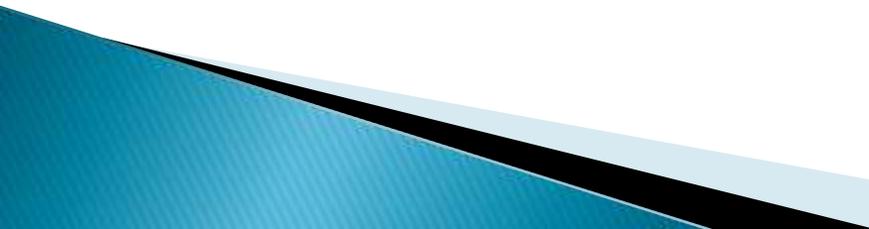
WIC State agencies, local agencies, and other subrecipients must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.

# Post-Award/Routine Compliance Reviews

There are 10 areas of review:

- Assurances
  - Public Notification
  - Racial and Ethnic Data Collection and Reporting
  - Civil Rights Complaints
  - Compliance Reviews
  - Resolution of Noncompliance
  - Civil Rights Training
  - Disability Compliance
  - Limited English Proficiency
  - Verification of Citizenship or Immigration Status
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# Special Compliance Reviews

- May be scheduled or unscheduled;
  - To follow-up on previous findings of noncompliance;
  - To investigate reports of noncompliance by other agencies, media, or grassroots organizations;
  - May be specific to an incident or policy;
  - History of statistical underrepresentation of particular group(s);
  - Pattern of complaints of discrimination.
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# Resolution of Noncompliance

- A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other subrecipient.
  - Steps must be taken immediately to obtain voluntary compliance.
  - A finding's effective date is the date of written notice to the reviewed entity.
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# Complaints of Discrimination

- ▶ Applicants or participants allege different treatment based on protected class(es).
- ▶ Protected classes WIC:
  - Race
  - Color
  - National origin
  - Age
  - Sex\*\*
  - Disability\*\*

# Complaints of Discrimination

- Complaints shall be accepted and forwarded to USDA;
- Complaints must be filed within 180 days from the alleged act of discrimination;
- Complaints may be written, verbal, or anonymous;
- State agencies or local agencies may develop their own complaint forms, but the use of such forms cannot be a prerequisite for acceptance;
- A separate Civil Rights complaint log shall be maintained by the State, local agencies, or subrecipients (if applicable);
- Confidentiality is extremely important and must be maintained.

# The Civil Rights Complaints Process

## Complaints should include:

- Name, address, and telephone number of the complainant;
  - The location and name of the organization or office where the alleged incident occurred;
  - The nature of the incident or action;
  - The names, titles, and business addresses of persons who may have knowledge of the discriminatory action;
  - The date(s) during which the alleged discriminatory actions occurred;
  - The basis for the alleged discrimination.
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# Civil Rights Training

- State agencies are responsible for training local agencies on an annual basis, including “frontline staff” who interact with applicants or participants;
  - Local agencies are responsible for training their subrecipients (if applicable) on an annual basis;
  - New employees must be trained before participating in Program administration;
  - Volunteers must receive training.
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# Civil Rights Training

All staff should receive training on all aspects of Civil Rights compliance, including:

- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Verification of citizenship and immigration status
- **Conflict resolution**
- **Customer service**

**Questions?**



# Contact Information

For more information contact:

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