

Civil Rights Training

Child Nutrition Programs



Mission of FNS Civil Rights Division

To provide leadership for comprehensive protection against discrimination in employment practices and delivery of programs to the public. Our goal is to ensure that applicants and individuals who are eligible to participate in our programs are treated fairly and equitably, with dignity and respect.

Agenda

- Civil Rights coverage and legal authorities
- Areas of compliance
 - Assurances
 - Public notification
 - Complaints of discrimination
 - Civil Rights training
 - Racial and ethnic data collection
 - Limited English Proficiency (LEP)
 - Disability compliance
 - Compliance reviews and resolution of noncompliance
- Questions/open discussion

Civil Rights

- The rights of personal liberty guaranteed by the 13th and 14th Amendments of the Constitution and Acts of Congress
- Terms “civil rights” and “equal employment opportunity (EEO)” are not interchangeable

Civil Rights Concepts

➤ Stereotyping

- Preconceived beliefs or over-simplified generalizations about a particular group

➤ Prejudice

- A set of rigid and unfavorable attitudes toward a particular group that is formed without considering facts

➤ Discrimination

- The practice of treating people differently because of how we have grouped them in our minds according to our prejudices

Civil Rights Program Authorities

- Programs and activities receiving federal financial assistance must abide by Civil Rights requirements
 - Title VI of the Civil Rights Act of 1964
 - Race, color, national origin
 - Civil Rights Restoration Act of 1987
 - Clarifies the scope of the Civil Rights Act of 1964
 - Section 504 of the Rehabilitation Act of 1973
 - Disability
 - Americans with Disabilities Act (ADA) of 1990/Americans with Disabilities Act Amendments Act (ADAAA) of 2008
 - Disability
 - Title IX of the Education Amendments of 1972
 - Sex
 - Age Discrimination Act of 1975
 - Age

Civil Rights Program Authorities

- Richard B. Russell National School Lunch Act of 1946
 - Signed by President Harry Truman and established the NSLP
- Child Nutrition Act of 1966
 - Signed by President Lyndon B. Johnson; SMP incorporated into the Act; SBP was established
- 7 CFR Parts 15, 15a, 15b
 - Gives USDA agencies authority to develop Civil Rights requirements
- 7 CFR Part 16, “Equal Opportunity for Religious Organizations”
 - Gives equal footing to religiously affiliated organizations
- 7 CFR Part 210
 - NSLP regulations

Civil Rights Program Authorities

- 7 CFR Part 215
 - SMP regulations
- 7 CFR Part 220
 - SBP regulations
- 7 CFR Part 245
 - NSLP/SMP/SBP – determining eligibility for free and reduced price meals and free milk in schools
- 7 CFR Part 225
 - SFSP regulations
- 7 CFR Part 226
 - CACFP regulations
- 28 CFR Part 35
 - Covers nondiscrimination on the basis of disability in State/local government services
- 28 CFR Part 42
 - Covers nondiscrimination in Federally assisted programs

Civil Rights Program Authorities

- Executive Order 13166
 - LEP
- USDA Departmental Regulation 4330-2
 - Prohibits discrimination in programs and activities funded in whole or in part by the USDA
- FNS Eligibility Manual for School Meals
 - Provides additional guidance on determining and verifying eligibility
- FNS Instruction 113-1 and Appendix B (CNP)
 - Provides information on Civil Rights compliance and enforcement

What is discrimination in CNP?

- 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 classes for CNP
 - Race
 - Color
 - National origin
 - Age
 - Sex
 - Disability

Assurances

- To qualify for Federal financial assistance, an application must be accompanied by a written assurance 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 must be incorporated in all agreements between State and local agencies.

Assurances

- Subrecipient agreements must also include a Civil Rights assurance of nondiscrimination.
 - Example: Many SFAs contract with Food Service Management Companies (FSMC) to provide food service to students. SFAs are be responsible for ensuring that their FSMCs are in compliance with CR requirements.
- These assurances are binding on the program applicant and its successors, transferees, and assignees, as long as they receive assistance or retain possession of any assistance from USDA.

Public Notification

- All FNS assistance programs (i.e. CNP) must include a public notification system.
- Elements of public notification
 - Program availability
 - Complaint information
 - Nondiscrimination statement

Elements of Public Notification

➤ **Program Availability**

Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation

➤ **Complaint Information**

Must 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 websites, 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

- State agencies and their subrecipients must:
 - Must prominently display the “And Justice for All” poster at service delivery points
 - Inform applicants or participants of programs or changes in programs
 - Provide information in alternative formats and languages as necessary
 - Convey message of equal opportunity in all photographic or pictorial program information

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](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027) found online at: 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.

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 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.

Esta institución es un proveedor que ofrece igualdad de oportunidades.

Nondiscrimination Statement

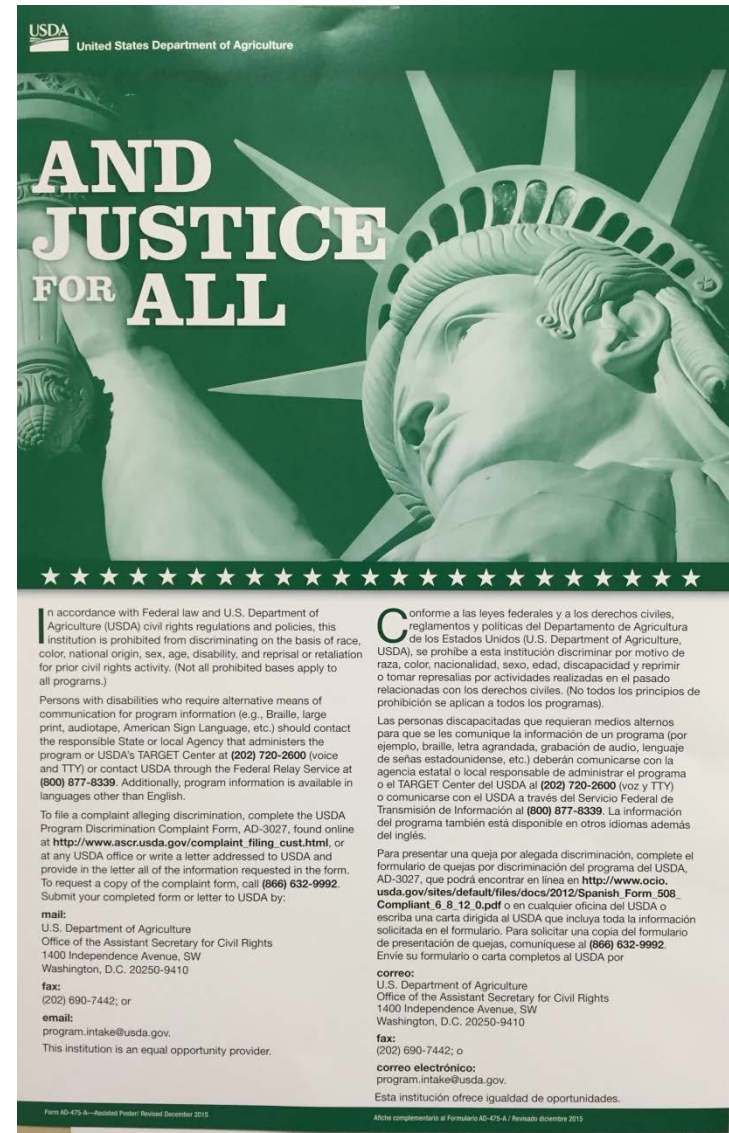
- USDA Nondiscrimination Statement (NDS)
 - Short versions
 - This institution is an equal opportunity provider.
 - Esta institución es un proveedor que ofrece igualdad de oportunidades. (Spanish)
 - *Can be used in special circumstances only
 - Translations
 - Other languages are forthcoming

Nondiscrimination Statement

- At a minimum, the Nondiscrimination Statement must be on
 - Application Form(s)
 - Notification of Eligibility or Ineligibility
 - Notice of Adverse Action Form
 - Program (Home) Web Page
 - Public Information, including program literature

“And Justice For All” Poster

- New posters have been printed and shipped directly to States
- All sites must display posters in a prominent location for all to view
- AD-475A
 - New required version for CNP
- Poster reflects current Nondiscrimination Statement and new graphic



Complaints of Discrimination

- Applicants or participants allege different treatment based on protected class(es)
 - Race
 - Color
 - National origin
 - Age
 - Sex
 - Disability



Complaints of Discrimination

➤ Complaint procedures

➤ Complaints processed at the State level:

- System must be approved by FNS and operated in accordance with FNS Instruction 113-1

➤ Complaints not processed by the State level

- Must be forwarded to FNS Civil Rights Division within 5 business days of receipt
- *DC CNP follows this procedure

➤ Complaints based on age (or a combination of age and other bases)

- Must all be forwarded to FNS Civil Rights Division within 5 business days of receipt regardless of complaint procedure utilized above

➤ Complaint log

- Civil Rights complaints must be maintained in a log separate from other program complaints

Complaints of Discrimination

➤ Additional information

- Applicants and participants must file within 180 days of the alleged action
- Confidentiality extremely important
- USDA complaint form

- English version:

http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf

- Spanish version:

http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf

Civil Rights Training

- Training is required so that individuals involved in all levels of administration of programs that receive Federal financial assistance understand Federal laws, regulations, instructions, policies and other guidance.

Civil Rights Training

- State agencies are responsible for training local agencies/subrecipients.
- Local agencies are responsible for training their staff and subrecipients on an annual basis.
 - Includes “frontline staff” and those who supervise frontline staff
- New employees must receive Civil Rights training before participating in Program activities.
- Volunteers (if any) must also receive training appropriate for their roles and responsibilities.

Civil Rights Training

- All staff should receive training on all aspects of Civil Rights compliance, including:
 - Assurances
 - Public notification
 - Complaints of discrimination
 - Civil Rights training
 - Racial and ethnic data collection
 - Limited English Proficiency (LEP)
 - Disability compliance
 - Compliance reviews and resolution of noncompliance
 - Conflict Resolution
 - Customer Service



Customer Service

Service is

Effectively communicating with customers,
Responding to their needs,
Valuing their worth, and
Instilling excellence through
Courtesy, confidence, and
Enthusiasm.



Conflict Resolution

- **IDENTIFY THE PROBLEM.** Identify the problem based on the information the customer gives you.
- **DETERMINE A SOLUTION.** Depending on the specifics of the conversation and your knowledge of your organization, the solution may involve calling the customer again.
- **GAIN APPROVAL FROM THE CUSTOMER.** If the customer does not agree to the proposed solution, it will resolve nothing!
- **MAKE AN AGREEMENT.** You and the customer should determine what is to be done, when it is to be done, and by whom. If it is not possible, suggest an alternative.
- **FOLLOW UP.** Personally make sure that the customer has been satisfied; and provide feedback.

Racial and Ethnic Data Collection and Reporting

- Data collection is mandatory
- Recipients of federal financial assistance must maintain a system to collect racial and ethnic data in accordance with FNS policy
- Data is used to:
 - Determine how effectively FNS programs are reaching potentially eligible people
 - Identify areas where additional outreach is needed
 - Assist in the selection of locations for compliance reviews
 - Complete reports as required
- Data must be maintained for 3 years
 - Must be submitted to FNS as requested

Racial and Ethnic Data Collection and Reporting

- Data must be collected using a two-part question
 - **1. Ethnicity**
 - Hispanic or Latino
 - Not Hispanic or Latino
 - **2. Race (*may select more than one*)**
 - American Indian or Alaskan Native
 - Asian
 - Black or African American
 - Native Hawaiian or Other Pacific Islander
 - White

Racial and Ethnic Data Collection and Reporting

- How to collect racial and ethnic data if:
 - An applicant chooses not to voluntarily provide the information (in person)?
 - The application process uses an online application (and the applicant does not voluntarily provide the information)?
- Children are not to be surveyed.
 - Questions must be posed to parents/legal guardians.

Racial and Ethnic Data Collection and Reporting

- If disparities or incidents of underrepresentation exist, it will be necessary to investigate the causes.
- If necessary, take action to ensure equal opportunity to participate in the program(s).

Limited English Proficiency (LEP) and Program Access

- Who are persons with LEP?
 - Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English because of their national origin
- Recipients of Federal financial assistance have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP.
- Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of national origin.

Limited English Proficiency (LEP) and Program Access

- Factors included in assuring “meaningful” access
 - The number or proportion of LEP people eligible to be served or likely to be encountered by the program
 - The frequency with which LEP individuals come in contact with the program
 - The nature and importance of the program, activity, or service provided by the program to people’s lives
 - The resources available to the recipient and costs

Limited English Proficiency (LEP) and Program Access

- State agencies must conduct assessments to determine language profile for their State, taking into account regional differences and updating as appropriate.
- Translation of vital documents is required.
- Oral translations and interpretation services are also required.
- Staff training regarding how to provide LEP populations with meaningful access is paramount (frontline staff).

Limited English Proficiency (LEP) and Program Access

- Language services
 - Applicants and participants cannot be asked to bring their own interpreters
 - Children should not be used as interpreters
- Examples of language services
 - Bilingual staff
 - Telephone interpreter lines
 - Oral interpretation services
 - Written language services
 - Community organizations and volunteers

Limited English Proficiency (LEP) and Program Access

- 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/>

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

- State and local offices must provide reasonable accommodations in policies and practices to applicants and participants with disabilities when necessary.
- Reasonable accommodations
 - Must be funded through State/local offices, not by applicants and participants
 - Require good communication between all parties involved
 - Provide the same level of service to applicants and participants in an alternative way

Disability Discrimination

- Accessibility of State and local agency websites, and online application systems to persons with visual impairments and other disabilities.
- Physical Program access to persons in wheelchairs and with mobility disabilities.
- Accessibility through Braille, large print and audio tape and other alternative formats.
- Accessibility to American Sign Language (ASL) and interpreters.

Disability Discrimination

- State agencies must have a 504/ADA Coordinator responsible for ensuring compliance.
- State agencies must have published grievance procedures and due process standards for “fair and prompt” resolution of 504/ADA complaints.

Compliance Reviews

- Examine the activities of State agencies, local 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 and subrecipients.
- Significant findings must be provided in writing to the reviewed entity.

Compliance Reviews

- There are three types of compliance reviews
 - Pre-award compliance reviews
 - Routine (post-award) compliance reviews
 - Special compliance reviews

Pre-Award Compliance Reviews

- State and local agencies must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.
- Usually conducted as desk reviews.
- Reports must be maintained in appropriate program files.

Pre-Award Compliance Reviews

- Pre-award Civil Rights information included as part of the application must, at a minimum, include:
 - NSLP, SBP, SMP
 - Copies of free and reduced price policy statements, letters to parents, public releases, and any other materials used to publicize the program's availability and nondiscrimination requirements
 - Estimated data on the racial and ethnic makeup of the applicant organization's program service area and enrollment
 - A description of membership requirements as a prerequisite for admission to the applicant's institution (if applicable)
 - The names of other Federal agencies providing assistance to the applicant organization and whether the applicant has ever been found to be in noncompliance by those Federal agencies



Pre-Award Compliance Reviews

- Pre-award Civil Rights information included as part of the application must, at a minimum, include:
 - CACFP, SFSP
 - An estimate of the racial and ethnic makeup of the population to be served
 - Efforts to be used to assure that underserved populations have an equal opportunity to participate
 - Efforts to be used to contact grassroots organizations about the opportunity to participate
 - The names of other Federal agencies providing assistance to the applicant organization and whether the applicant has ever been found to be in noncompliance by those Federal agencies

Routine/Post–Award Reviews

- FNS and State agencies must conduct routine compliance reviews as identified by FNS Instruction 113–1 and program–specific regulations and policies
- Assess all of the Civil Rights compliance areas
- Sample post–award review questions
 - Do printed materials contain the nondiscrimination statement?
 - Is the “And Justice For All” poster displayed appropriately?
 - Are program informational materials available to all?
 - Is data on race and ethnicity collected appropriately?
 - How are applicants and participants advised of their right to file a Civil Rights complaint of discrimination?
 - Are reasonable accommodations appropriately made for people with disabilities?
 - Are appropriate language services provided?

Special Compliance Reviews

- Conducted by USDA's Office of the Assistant Secretary for Civil Rights independently or in conjunction with FNS program or Civil Rights staff
- 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

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 subrecipient agency
- Steps must be taken immediately to obtain **voluntary** compliance
- A finding's effective date is the date of notice to the reviewed entity

Questions?

Contact Information

Michele Sazo

**Regional Director, Civil Rights
USDA, Food and Nutrition Service**

Mid-Atlantic Region

Mercer Corporate Park

300 Corporate Blvd.

Robbinsville, NJ 08691

Telephone: (609) 259-5061

Email: michele.sazo@fns.usda.gov

Covering

*Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico,
Virgin Islands, Virginia, West Virginia*