Civil Rights Training

Child and Adult Care Food Program (CACFP)

Civil Rights Division
Food and Nutrition Service, USDA

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Agenda (Optional)

- Civil Rights Program and Legal Authorities

- Areas of Compliance
  - Assurances
  - Public Notification Requirements
  - Complaints of Discrimination
  - Civil Rights Training
  - Race and Ethnicity Data Collection
  - Limited English Proficiency (LEP)
  - Disability Compliance
  - Compliance Reviews
  - Resolution of Noncompliance
  - Conflict Resolution
  - Customer Service

Why 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 Program Authorities

- Title VI of the Civil Rights of 1964
  - Race, Color, and National Origin
- Sections 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), & the ADA Amendments Act of 2008
  - Disability
- Title IX of the Education Amendments of 1972
  - Sex
- Age Discrimination Act of 1975
  - Age

Civil Rights Program Authorities

- Civil Rights Restoration Act of 1987
  - Clarifies the scope of the Civil Rights Act of 1964
- 7 CFR Part 16, “Equal Opportunity for Religious Organizations”
- Executive Order 13166 – “Improving Access to Services for Persons with Limited English Proficiency" (August 11, 2000)
- USDA LEP Policy Guidance (79 Fed. Reg. No. 229, page7077. Friday, November 28, 2014)

Civil Rights Program Authorities

- 7 CFR Parts 15, 15a & 15b
- 7 CFR Part 226 (CACFP)
- 28 CFR Part 42: Nondiscrimination in Federally-assisted Programs
- USDA Departmental Regulation 4330-2
  - Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA.
- FNS Instruction 113-1 and Appendix B (CACFP)

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…

Six Protected Bases

For CACFP, different treatment is based on one or more of the six protected bases:

1) Race
2) Color
3) National Origin
4) Age
5) Sex
6) Disability

Assurances

- "To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the Civil Rights laws and implementing nondiscrimination regulations."

- A Civil Rights assurance statement must be incorporated in all agreements between Federal & State agencies, State & CACFP sponsors, and CACFP sponsors & their sub recipients.

(FNS Instruction 113-1, Appendix B(D)(2)

Public Notification

All FNS programs must include a public notification system.

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

  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.

Elements of Public Notification

- Nondiscrimination Statement

  All information materials and sources, including Web sites, used by FNS, State agencies, local 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

State agencies and/or CACFP sponsors 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

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:
mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
fax:
(833) 256-1665 or (202) 690-7442; or
email:
program.intake@usda.gov

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.

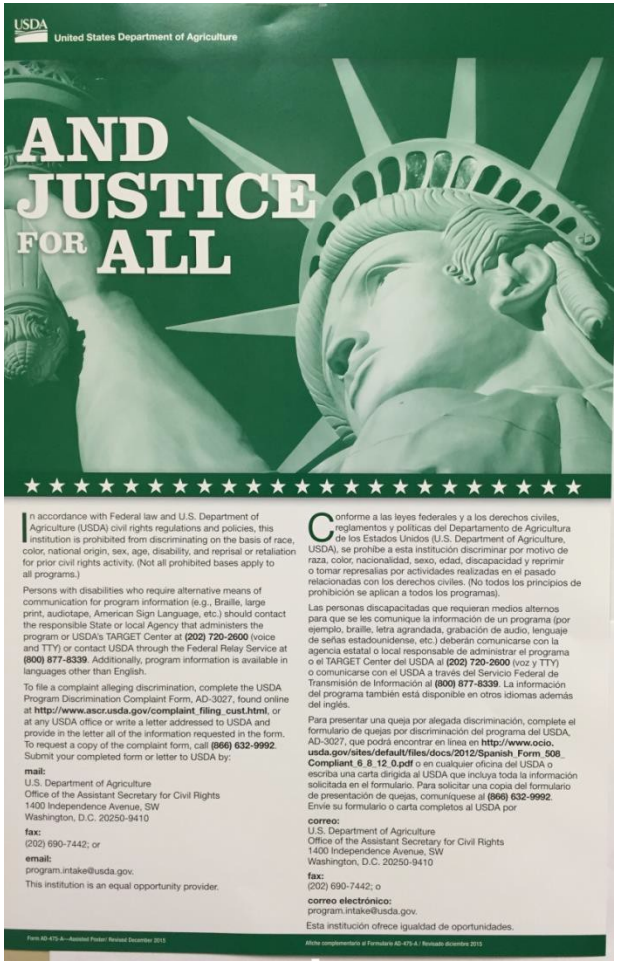
Nondiscrimination Statement

- USDA Nondiscrimination Statement (NDS)
  - Short version
    - 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 the poster in a prominent location for all to view

- AD-475A
  - New required version for CACFP



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 subrecipient agencies may develop their own complaint forms, but the use of such forms cannot be a pre-requisite for acceptance ;
- A separate Civil Rights complaint log shall be maintained by the State & subrecipient agency;
- Confidentiality is extremely important and must be maintained.

Civil Rights Complaints Process

Complaints should include:

- Name, address, and telephone number of the complainant
- The location and name of the organization or office
- 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.

Civil Rights Complaints Process

- USDA Discrimination Complaint Form
  - English

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

  - Spanish

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

Civil Rights Training

- State agencies are responsible for training CACFP sponsors on an annual basis;
- CACFP sponsors are responsible for training their sub recipients, including "frontline staff" who interact with applicants or participants on an annual basis;
- New employees before participating in Program activities;
- Volunteers must receive training.

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;
- Conflict resolution; and
  Customer service.

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.

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 Requirements

Title VI and its implementing regulations, Executive Order 13166, and Federal agency Guidance require Federal agencies and recipients (State agencies, local agencies, or other subrecipients), to take reasonable steps to ensure "meaningful" access to their programs and activities by Limited English Proficient (LEP) persons.

(FNS Instruction 113-1, Section VII)

Who are persons with Limited English Proficiency (LEP)?

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

What is Meaningful Access?

Meaningful access is accomplished by providing reasonable, timely, appropriate, competent/qualified, accurate, and effective language services to individuals with LEP when accessing recipient programs and activities.

LEP Requirements

Factors to consider in addressing LEP:

- Number or proportion of LEP persons served or encountered in the eligible population.
- Frequency with which LEP individuals come in contact with the program.
- Nature and importance of the program, activity, or service provided by the program.
- Resources available to the recipient and costs.

LEP Requirements

Population data sources

- Interagency LEP Website – Mapping Tool
  ✓ http://www.lep.gov/maps/
- 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

- Sections 504 of the Rehabilitation Act of 1973 and USDA implementing Regulation, 7 CFR Part 15b
  - prohibits 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 if they are potential applicants or participants in any FNS funded programs.

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

- The ADA requires public entities to make "reasonable modifications" in their usual ways of doing things when necessary to accommodate people who have disabilities. (e.g. provide Braille, large print, audio tape, other auxiliary aids or services).

- Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.

Equal Opportunity for Religious Organizations

7 CFR Part 16 notes:

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

Compliance Reviews

- Examine the activities of State agencies, CACFP sponsors, and sub recipients to determine Civil Rights compliance;

- FNS Civil Rights and Program staff review State agencies.
  - FNS staff and State agencies review CACFP sponsors. CACFP sponsors review their sub recipients.

- Significant findings must be provided in writing to the reviewed entity and to FNS.

Compliance Reviews

There are three types of compliance reviews:

- Pre-Award Compliance Reviews
- Routine (Post-Award) Compliance Reviews
- Special Compliance Reviews

Pre-Award/Pre-Approval Compliance Reviews

- State agencies, CACFP sponsors, or other sub recipients must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.

Post-Award/Routine Compliance Reviews

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

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.

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 sub recipient.
- Steps must be taken immediately to obtain voluntary compliance.
- A finding's effective date is the date of notice to the reviewed entity.

Voluntary Resolution Agreement

- A Voluntary Resolution Agreement (VRA) is an agreement that recipient(s) are willfully consenting to undertake remedial actions to address identified areas of noncompliance or in violation with applicable civil rights laws and/or regulations.
- The VRA may be between multiple parties such as the officials in authority to regulate civil rights laws (Food and Nutrition Service, Civil Rights Division, (FNS CRD)), recipient or sub-recipient (State agency or school), and program participant (Complainant).

Voluntary Resolution Agreement

- Voluntary Resolution Agreements may be used to closeout a Civil Rights Compliance Review at the discretion of FNS CRD in lieu of issuing a written Compliance Review report with findings.

Questions?

Contact Information

Name

Title

Address Line 1

Address Line 2

Address Line 3

City, State Zip Code

Telephone:

Email: