

Civil Rights Training

Commodity Supplemental Food Program
(CSFP)



Civil Rights Division
USDA, Food and Nutrition Service

February 25, 2015



Agenda



☞ Civil Rights Coverage and Legal Authorities

☞ Areas of Compliance

- Assurances
- Public notification requirements
- Complaints of discrimination
- Civil Rights training
- Racial and ethnic data collection
- Limited English Proficiency (LEP)
- Disability discrimination
- Equal opportunity for religious organizations
- Compliance Reviews

☞ Sample scenarios

☞ Questions

Civil Rights Legal Authorities



- ∞ Title VI of the Civil Rights Act of 1964
 - race, color, and national origin
- ∞ Civil Rights Restoration Act of 1987
 - clarifies the scope of the Civil Rights Act of 1964
- ∞ Sections 504 and 508 of the Rehabilitation Act of 1973 & Americans w/Disabilities Act
 - disability
- ∞ Title IX of the Education Amendments of 1972
 - sex
- ∞ Age Discrimination Act of 1975
 - age

Civil Rights Legal Authorities



- ❧ 7 CFR Parts 15, 15a & 15b
- ❧ 7 CFR Parts 247 and 250 (CSFP)
- ❧ 28 CFR Part 42 (Nondiscrimination in Federally Assisted Programs)
- ❧ Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86), as amended (CSFP)

Civil Rights Legal Authorities



œ Executive Order 13166

- LEP

œ 7 CFR Part 16, “Equal Opportunity for Religious Organizations”

- Religion

œ USDA Departmental Regulation 4330-2

œ FNS Instruction 113-1 and Appendix C (CSFP)

What is discrimination?



Discrimination is defined as: 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 CSFP, different treatment is based on one or more of the six protected bases:

- ✧ Race
- ✧ Color
- ✧ National Origin
- ✧ Age
- ✧ Sex
- ✧ 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 & subrecipient agencies, and subrecipient agencies & their local sites.

(FNS Instruction 113-1, Appendix C)

Public Notification



All FNS assistance 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.

❧ 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.

Elements of Public Notification



State agencies and their subrecipients 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



The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#) (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.

Nondiscrimination Statement

(Spanish version)



El Departamento de Agricultura de los Estados Unidos (por sus siglas en inglés “USDA”) prohíbe la discriminación contra sus clientes, empleados y solicitantes de empleo por raza, color, origen nacional, edad, discapacidad, sexo, identidad de género, religión, represalias y, según corresponda, convicciones políticas, estado civil, estado familiar o paternal, orientación sexual, o si los ingresos de una persona provienen en su totalidad o en parte de un programa de asistencia pública, o información genética protegida de empleo o de cualquier programa o actividad realizada o financiada por el Departamento. (No todos los criterios prohibidos se aplicarán a todos los programas y/o actividades laborales).

Si desea presentar una queja por discriminación del programa de Derechos Civiles, complete el [USDA Program Discrimination Complaint Form](#) (formulario de quejas por discriminación del programa del USDA), que puede encontrar en internet en http://www.ascr.usda.gov/complaint_filing_cust.html, o en cualquier oficina del USDA, o llame al (866) 632-9992 para solicitar el formulario. También puede escribir una carta con toda la información solicitada en el formulario. Envíenos su formulario de queja completo o carta por correo postal a U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, por fax al (202) 690-7442 o por correo electrónico a program.intake@usda.gov.

Las personas sordas, con dificultades auditivas, o con discapacidad del habla pueden contactar al USDA por medio del Federal Relay Service (Servicio federal de transmisión) al (800) 877-8339 o (800) 845-6136 (en español).

El USDA es un proveedor y empleador que ofrece igualdad de oportunidades.

“And Justice For All...” Poster



All sites must display the poster in a prominent location for all to view.

- **Version AD-475C**
All other FNS programs (CSFP)



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 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 subrecipient agencies on an annual basis.
- ❧ Subrecipient agencies are responsible for training their local sites, 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 and Ethnic Data Collection



☞ “The State agency must establish a system for collecting and maintaining racial or ethnic participation data. Recording the racial or ethnic identification of applicants and participants may include the utilization of self-identification where a written application is required. Other methods of recording such data may include card files, rosters, logbooks, or any written record used by local agencies or other subrecipients.”

(FNS Instruction 113-1, Appendix C)

☞ Use Form FNS-191, Racial or Ethnic Group Participation – Commodity Supplemental Food Program, to record and submit to FNS racial or ethnic participation data for CSFP households.

Racial and Ethnic Data Collection



- ❧ 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.

Racial and Ethnic Data Collection



State and subrecipient 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

Racial and Ethnic Data Collection



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*

Who are persons with Limited English Proficiency (LEP)?



Definition

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

LEP and Bilingual Requirements



- ☞ Title VI, 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).

(FNS Instruction 113-1, Section VII)

LEP and Bilingual 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 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/>

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 and USDA implementing Regulation, 7 CFR Part 15b
 - 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 if they are potential applicants or participants in any FNS funded programs.

Disability Discrimination



- ⌘ There is also an obligation to ensure that members of the public are provided accommodations in order to access program information, applications and assistance (i.e. Braille, large print, and audio tape)
- ⌘ Providing American Sign Language (ASL) interpreters for persons with hearing disabilities may be necessary to be able to adequately 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, subrecipients, and local sites to determine Civil Rights compliance;
- ❧ FNS Civil Rights and Program staff review State agencies.
 - FNS staff and State agencies review subrecipients. Subrecipients review local sites.
- ❧ 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 Compliance Reviews



- ❧ State agencies, subrecipient agencies, and local sites must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.

Routine/Post-Award Compliance Reviews



- ❧ FNS and State agency must conduct routine compliance reviews as identified by FNS Instruction 113-1 and program-specific regulations, policies

- ❧ 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?

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, subrecipient agency, or a local site.
- ❧ Steps must be taken immediately to obtain *voluntary* compliance.
- ❧ A finding's effective date is the date of notice to the reviewed entity.

Sample Scenario #1



A person in a wheelchair complains that the site where he was told to pick up his food package is not accessible to public transportation.

❧ What steps should be taken in this situation? How can this person be accommodated?

Sample Scenario #2



A participant tries to speak with a volunteer at a CSFP distribution site in a language other than English, but the volunteer cannot understand the participant. The participant leaves without being served.

❧ How should that situation have been handled by the volunteer?

Sample Scenario #3



A reviewer from the State visits a CSFP distribution site and sees the *And Justice For All* poster displayed in the manager's office, which is located in an area that is off limits to program applicants and participants.

❧ Is this a Civil Rights violation? Why or why not?



Questions?

Contact Information



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