Civil Rights for School Nutrition Programs
Why we do what we do!

Overview and Objectives

1. Assurances
2. Authorities
3. Protected Bases
4. Public Notification
5. Complaint Procedures
6. Racial and Ethnic Collection
7. Language Assistance
8. Compliance Reviews

Objective: To understand and implement Civil Rights expectations and requirements.

Civil Rights Education includes:
- Data collection and use
- Public Notification
- Complaints
- Compliance and noncompliance
- Accommodation
- Resolving conflict
Why Civil Rights Training?

Civil Rights Training required for all individuals involved in all levels of administration.

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

Applicability

Food and Nutrition (FNS) Instruction 113-1 is applicable to all programs and activities of a recipient of Federal financial assistance, regardless of those programs and activities being federally-funded in part or whole.

A Civil Rights Assurance must be incorporated in all agreements between State and local agencies and their subrecipients.
See FNS Instruction 113-1, Appendix B and Form FN-74 for Program-specific assurance language.

Legal Authorities - Civil Rights

- 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
  - Disability
- The Age Discrimination Act of 1975 - Age
- Title IX of the Education Amendments of 1972 - Sex
- CFR Parts 15, 15a and 15b
  - Discrimination, Education, Disability
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.

Disability and Major Life Activity

- Major life activity means functions such as:
  - Caring for oneself
  - Performing manual tasks
  - Walking
  - Seeing
  - Hearing
  - Speaking
  - Breathing
  - Learning
  - Working

Equal Opportunity for Religious Organizations

Ensures equality for participation of faith-based organizations and other community organizations in USDA programs.
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.

Six Protected Bases of Discrimination

School Nutrition Programs

Race
Color
National Origin
Age
Sex (including gender identity and sexual orientation)
Disability

Required Public Notification System

Must inform applicants, participants, and potentially eligible persons of:

- program availability
- program rights and responsibilities
- the policy of nondiscrimination
- the procedure for filing a complaint
3 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 - Must be included on all information, materials, and resources used to inform the public about FNS programs.

Methods of Public Notification

Display the Poster!
AD-475A
This is the required version

Nondiscrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) policy, this agency 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 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.

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, 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.
De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo (incluyendo identidad de género y orientación sexual), discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieran medios alternos de comunicación para obtener la información del programa, por ejemplo, Braille, texto grande, cinta de audio, lengua de señas americana (ASL) o cierta forma complementaria, deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: https://www.fns.usda.gov/sites/default/files/resource-files/usdaprogram-discrimination-complaint-form-spanish.pdf, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a 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; or
(2) fax: (833) 256-1665 o (202) 690-7442; or
(3) correo electrónico: program.intake@usda.gov

Esta entidad es un proveedor que brinda igualdad de oportunidades

Nondiscrimination Statement (Spanish)

Which Version Should I Use?

• Include entire statement when space permits
• Use shortened version in *special circumstances only where space is limited:
  “The USDA is an equal opportunity provider.”
• For electronic communications use the statement on the previous slide.

Discrimination Complaints

• Must adhere to timeframes
• File complaint within 180 days of discriminatory action
• May be written, verbal, or anonymous
• Form is provided but not required
Discrimination Complaints

- Request key information
- SA forwards complaints to DPO
- Complainant receives a letter of acknowledgement
- Age discrimination complaints are referred to Federal Mediation and Conciliation Service (FMCS) within 10 days
- Attempt resolution quickly at the lowest possible level
- If finding(s), execute corrective action

Racial and Ethnic Data Collection and Reporting

- Must obtain data by race and ethnic category on potentially eligible participants in area
- Establish and maintain data collection systems
- Ask for identification of racial categories that apply
- Self-reported data is preferred

Collecting and Reporting Participation Data

- Make provisions for self identification when data is collected by on-line methods
- Collect and keep data as specified in the program regulations, instructions, and policies.
- Retain records for current year and 3 previous
- Restrict data access to authorized personnel only.
- Submit as requested to Food and Nutrition Service (FNS)
Limited English Proficiency

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English should be provided access to federally funded programs.

Limited English Proficiency (LEP)

Must take reasonable steps to ensure meaningful access to programs and activities by persons with limited English proficiency.

Free & Reduced Application templates are available in many languages on the USDA website: https://www.fns.usda.gov/choosing-free-reduced-price-meals/translated-applications
Compliance Reviews

- State agencies review local agencies.
- Local agencies review sub-recipients.

3 Types of Reviews
- Pre-Award
- Post-Award
- Special Review

Must report findings.

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Pre-Award Requirement
Conducted when SFA’s are being considered to operate a School Nutrition Program.

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Post-Award Requirement
Administrative Review selection may be based on one of the following concerns:
- Unusual fluctuation in racial/ethnic participation
- Number of discrimination complaints
- Reported information
- Unresolved findings
Post-Award Requirement

State Agency (SA) evaluates:
- Equal opportunity to participate;
- Case records coded properly
- Posters displayed as required
- Appropriate use of nondiscrimination statement

Post-Award Requirement

- Availability of program information
- Data maintained for three years
- Complaint processing
- Education

Compliance Reviews “For Cause”

Conducted upon:
- Indication of benefits not extended properly
- Documentation of complaint patterns
- Report of alleged noncompliance
Non-compliance

**Definition**
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.

**What are examples of noncompliance?**

<table>
<thead>
<tr>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denying program benefits or services on protected class basis</td>
</tr>
<tr>
<td>Providing services or benefits in a disparate manner</td>
</tr>
<tr>
<td>Improper selection of advisory members based on protected class</td>
</tr>
<tr>
<td>Selecting program sites in a way that denies access to benefits based on protected class</td>
</tr>
<tr>
<td>Over-verification of categorically eligible participants</td>
</tr>
</tbody>
</table>

**What may result from non-compliance?**

- Management Evaluation or Civil Rights Compliance Review
- Special Review
- Investigation
- AR or other local level review
Noncompliance

- Noncompliance is effective on date of the written notice
- Seek voluntary compliance at the lowest possible level.

Actions for Voluntary Compliance

SA must:
- Provide immediate written notice
- Negotiate to achieve compliance
- Submit report to FNS Headquarters if no resolution within 60 days

FNS makes determination for further efforts
- Possible referral to SA with recommendations
- Civil Rights Office (CRO) will prepare written communication when voluntary efforts are exhausted
Non-Discrimination 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 (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or financed 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, 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:

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