



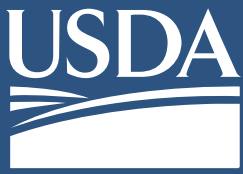
United States Department of Agriculture

# **Civil Rights Training Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP) & USDA Foods**

Civil Rights Division

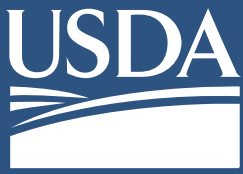
USDA, Food and Nutrition Service

**FNS CRD Webinar  
July 2022**



## Agenda

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



## 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

Section 504 of the Rehabilitation Act of 1973 & Americans w/Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008

- Disability

Title IX of the Education Amendments of 1972

- Sex

Age Discrimination Act of 1975

- Age



## Program Authorities

CSFP: Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86), as amended.

TEFAP: The Emergency Food Assistance Act of 1983 (Public Law 98-8), as amended.

USDA Foods: Section 6 and Section 13(h) of the Richard B. Russell National School Lunch Act (Public Law 79-936), as amended; Child Nutrition Act of 1966 (Public Law 89-642), as amended



## **More Civil Rights and Program Authorities**

7 CFR Parts 15, 15a & 15b (Nondiscrimination)

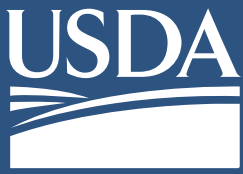
7 CFR Part 16 (Religious Org Participation)

7 CFR Parts 247 & 250 (CSFP)

7 CFR Parts 250 & 251 (TEFAP)

7 CFR Part 250 (USDA Foods)

28 CFR Part 42 (Nondiscrimination in Federally Assisted Programs)



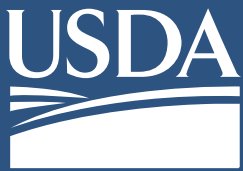
## **More Civil Rights Legal Authorities**

Executive Order 13166 & USDA LEP

Guidance (79 Fed. Reg. No, 229, Friday, November 28, 2014)

USDA Departmental Regulation 4330-002

FNS Instruction 113-1 and Appendix C for CSFP, TEFAP & USDA Foods



## **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...”

For FNS programs discussed today, complaints are based on one or more of the six Federally protected bases:

- 1) Race,
- 2) Color,
- 3) National Origin,
- 4) Age,
- 5) Sex, (including gender identity and sexual orientation)
- 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 & subrecipient agencies, and subrecipient agencies & their local sites.

(FNS Instruction 113-1, Appendix C or current FNS Form 74)





## Public Notification

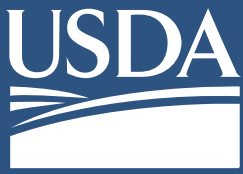
- All FNS assistance programs must include a public notification system.
  
- The purpose of this system is to inform applicants, participants, and potentially eligible persons of:
  - program availability,
  - program rights and responsibilities,
  - the policy of nondiscrimination and
  - the procedure for filing a complaint.



## **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.



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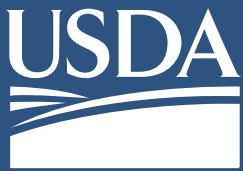
# Nondiscrimination Statement

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:

1. **mail:**  
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 or (202) 690-7442; or
3. **email:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov)



# Nondiscrimination Statement Continued

- 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 limited circumstances only
  - Translations
    - Other languages will be available on the FNS Civil Rights web page at: <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>



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## "And Justice For All" Poster \*\*

Display the poster in a prominent location for all to view

### AD-475A

Required version for School Meals Programs

New posters being produced.

Use current version until received



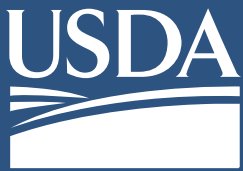


## Race and Ethnicity Data Collection

TEFAP and USDA Foods are exempt from data collection per FNS Instruction 113-1, Appendix C, Section D *DATA COLLECTION AND REPORTING*

“State agencies and local agencies or other subrecipients that operate FDPIR and CSFP must collect and maintain racial or ethnic data as specified below. The other commodity programs listed under this Appendix are exempt from this requirement.”

Otherwise.....



## **Race & Ethnicity 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 race or ethnicity participation data for CSFP households.



## **Race / Ethnicity 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.





## Race/Ethnicity Data Collection

- If an applicant/parent does not consent to the self-identification method, the caseworker will, otherwise determine the applicant's race or ethnicity based on established policy and procedure and mark applicable category.
- [Children are not to be surveyed.](#)



## **Race and Ethnicity Categories - Two Question Format**

### 1. Ethnicity

*Hispanic or Latino*

*Not Hispanic or Latino*

### 2. Race (one or more of the following)

*American Indian or Alaska Native*

*Asian*

*Black or African American*

*Native Hawaiian or Other Pacific Islander*

*White*



## Complaints of Discrimination

Applicants or participants allege different treatment based on protected class(es).

Protected classes in USDA Food Distribution Programs:

Race

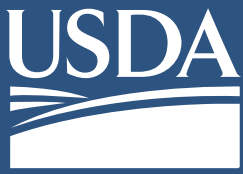
Color

National origin

Age

Sex (including gender identity and sexual orientation)

Disability



## Complaints of Discrimination continued

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 prerequisite 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 – cont'd**

# USDA Discrimination Complaint Form

## English

<https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>

## Spanish

[https://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6\\_8\\_12\\_0.pdf](https://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf)



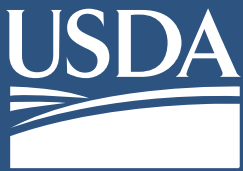
## Compliance Reviews

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 Review Types**

There are three types of Civil Rights Reviews

- Pre-Award
- Routine (Post-Award)
- Special reviews





## **Pre-Award 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 Reviews

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

May be scheduled or unscheduled;

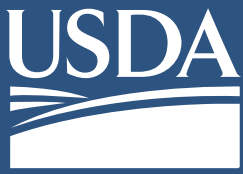
To follow-up on previous findings of noncompliance;

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.



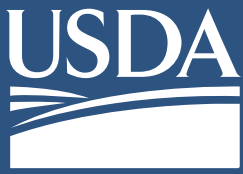
## Resolution of Noncompliance

- “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 compliance.
- Effective date of the finding of noncompliance is the date of notice to the State agency, local agency, or other subrecipient.



## Voluntary Resolution Agreement

- A Voluntary Resolution Agreement (VRA) is an agreement that recipient(s) are willfully consenting to undertake remedial actions to address identified Civil Rights concerns 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 Agreements may be used to closeout a Civil Rights Review at the discretion of FNS CRD in lieu of issuing a written Civil Rights Review report with findings.



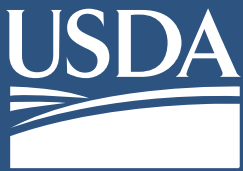
## Civil Rights Training

- State agencies are responsible for training local agencies on an **annual basis**.
- Local agencies are responsible for training their subrecipients, 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;
- Staff should be able to identify a Civil Rights complaint if received;
- They should know what to do if they receive a complaint;
- Understand that it is the basic right of the individual to file a complaint.



## **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.
- Recipients of Federal financial assistance have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP).





## 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)



## **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.



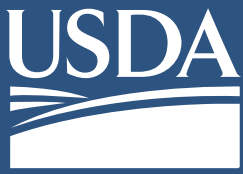
## LEP and Program Access

The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient."

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 Program Access Resources

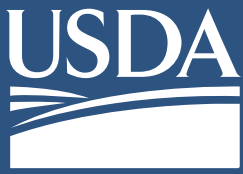
- Population data sources
  - US Census Data
    - <http://www.census.gov/2010census/data/>
  - American Community Survey
    - <http://www.census.gov/acs/>
  - Migration Policy Institute's National Center on Immigrant Integration Policy
    - <http://www.migrationpolicy.org/>
- LEP.GOV
  - <http://www.lep.gov/>

## Disability Access

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 Access continued**

Sections 504 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 Access - continued**

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

## **Disability Access - considerations**

- 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.



# Questions





United States Department of Agriculture

## Contact Information

Steve Miliano

Regional Civil Rights Officer

Northeast Region

USDA Food and Nutrition Service

Office: (617) 565-6424

Stephen.Miliano@usda.gov

Survey: [https://forms.office.com/Pages/ResponsePage.aspx?id=5zZb7e4BvE6GfuA8-g1GI09N83F\\_6YZersFaMbtc5YZUN1A3Q0NUTepVVEVaVUIJRkc2MTJLTkY0Ui4u](https://forms.office.com/Pages/ResponsePage.aspx?id=5zZb7e4BvE6GfuA8-g1GI09N83F_6YZersFaMbtc5YZUN1A3Q0NUTepVVEVaVUIJRkc2MTJLTkY0Ui4u)