



United States Department of Agriculture

CIVIL RIGHTS TRAINING

Commodity Supplemental Food Program (CSFP) and The Emergency Food Assistance Program (TEFAP)

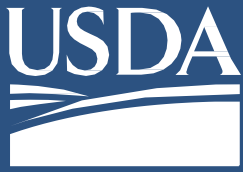
Civil Rights Division

USDA, Food and Nutrition Service



Agenda

- Civil Rights Coverage and Legal Authorities
- Areas of Compliance
 - Assurances
 - Public Notification
 - Racial and Ethnic Data Collection (**CSFP only**)
 - Limited English Proficiency (LEP)
 - Disability Discrimination
 - Equal Opportunity for Religious Organizations
 - Civil Rights Training
 - Complaints of Discrimination
 - Compliance Reviews
 - Resolution of Noncompliance
- 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

Section 504 of the Rehabilitation Act of 1973; Americans w/Disabilities Act of 1990,
as amended by the Americans with Disabilities Act Amendments Act of 2008

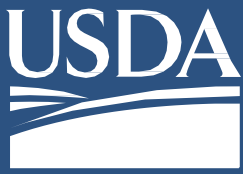
- Disability

Title IX of the Education Amendments of 1972

- Sex

Age Discrimination Act of 1975

- Age



Civil Rights Legal Authorities

7 CFR Part 15

- Gives USDA agencies authority to develop Civil Rights requirements and prohibits discrimination in Federally assisted programs or activities

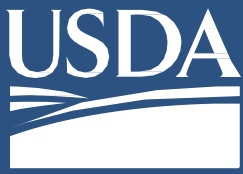
7 CFR Part 16, "Equal Opportunity for Religious Organizations"

- Gives equal footing to religiously affiliated organizations

7 CFR Parts 247 and 250 (CSFP)

7 CFR Parts 250 and 251 (TEFAP)

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

28 CFR Part 35

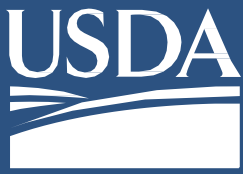
- Covers nondiscrimination on the basis of disability by State/local Governments

28 CFR Part 42

- Covers nondiscrimination in federally assisted programs

Executive Order 13166 - "Improving Access to Services for Persons with Limited English Proficiency" (August 11, 2000)

"Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency" (79 Fed. Reg. No, 229, Friday, November 28, 2014) USDA LEP Guidance



Civil Rights Legal Authorities

USDA Departmental Regulation 4330-002

- Prohibits discrimination in programs and activities funded in whole or in part by the USDA

USDA Departmental Regulation 4300-003

- Equal Opportunity Public Notification Policy

FNS Instruction 113-1 and Appendix C

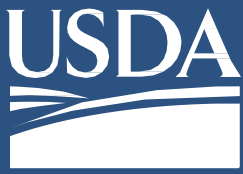
- Provides information on Civil Rights compliance and enforcement



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...”

- Race
- Color
- National Origin
- Age
- Sex (including gender identity and sexual orientation)
- 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 statement must be incorporated in all agreements between

- Federal and CSFP/TEFAP State agencies (FNS Form 74)
- CSFP/TEFAP State agencies and subrecipient agencies
- Subrecipient agencies and their local sites (if applicable)

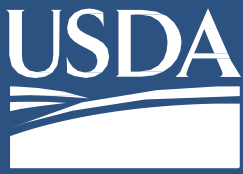


Public Notification

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
- The Procedure for Filing a Complaint



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

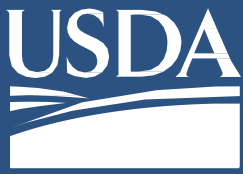
All information materials and sources, including websites, must contain a nondiscrimination statement. The statement is not required to be included on every page of the program website. At a minimum the nondiscrimination statement or a link to it must be included on the home page of the program information.



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



United States Department of Agriculture

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

This institution is an equal opportunity provider.



Nondiscrimination Statement (*Spanish*)

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 requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) 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; o
- (3) correo electrónico:
program.intake@usda.gov



Nondiscrimination Statement

At a minimum, the full Nondiscrimination Statement must be on:

- Application form(s)
- Notification of eligibility or ineligibility
- Notification of adverse action
- Program (Home) webpage (or a link to it)
- Public information, including program literature



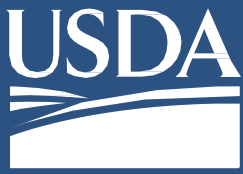
Nondiscrimination Statement

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

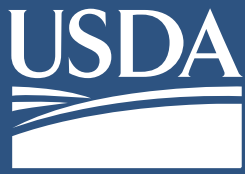
Translations

- Other languages will be available on the FNS Civil Rights Division webpage
- <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>



“And Justice For All” Poster

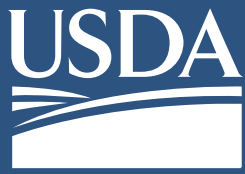
- Display the poster in a prominent location for all to view
- AD-475A is the required version for CSFP and TEFAP
- New posters being produced. Use current version until new posters are received.



Knowledge Check #1:

While reviewing copies of contracts, agreements, and MOUs, FNS reviewers note that the State Agency (SA) included the current nondiscrimination statement (NDS) in all program contracts as the Civil Rights assurance language.

Is this appropriate, acceptable, and compliant?



Knowledge Check #2:

CRD staff are reviewing copies of program publications and informational documents. CRD staff finds that the State and local agencies have chosen to incorporate the abbreviated NDS into CSFP and TEFAP materials. However, upon closer look, it is noted that the following NDS is used: "USDA is an equal opportunity provider, employer and lender."

Is this correct?



Race/Ethnicity Data Collection (CSFP only)

State agencies and local agencies or other subrecipients that operate CSFP must collect and maintain racial or ethnic data to determine how effectively FNS programs are reaching potentially eligible persons and beneficiaries.

State agencies must establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits as a means of monitoring Civil Rights compliance.

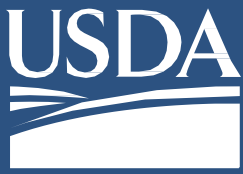


Race/Ethnicity Data Collection (CSFP only)

Data should be collected at the point of application and retained at the service delivery area.

Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.

If an applicant does not consent to the self-identification method, staff will obtain the information using other appropriate methods.

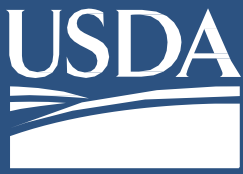


Race/Ethnicity Data Collection (CSFP only)

State agencies must ensure that documentation for the data collected by the local agency or other subrecipient is on file and maintained for the required 3 years.

Ensure that access to data is limited to authorized personnel.

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.



Race and Ethnicity Categories - Two Question Format (CSFP only)

1. Ethnicity

Hispanic or Latino

Not Hispanic or Latino

2. Race (*may select one or more of the following*)

American Indian or Alaska 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 USDA LEP 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)

LEP Requirements

➤ **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

What is Meaningful Access?

- Meaningful access is accomplished by providing competent, accurate, timely and effective language services at no charge to individuals with LEP when accessing recipient programs and activities.
- Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of national origin.



LEP and Program Access

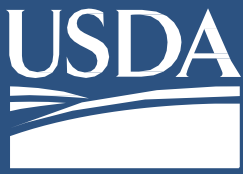
Factors to consider when ensuring “meaningful” access:

- 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 and their costs



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 notification of free interpretation services is required.
- Staff training regarding how to provide LEP populations with meaningful access is paramount (frontline staff).



LEP and Program Access

- Language services:
 - Applicants and participants cannot be asked to bring their own interpreters
 - Children should **not** be used as interpreters
 - Use qualified, competent language resources

- Examples of language services:
 - Qualified, competent bilingual staff
 - Telephone interpreter lines
 - Oral interpretation services
 - Written language services
 - Qualified, competent community organizations and volunteers



LEP Population and Data Sources

Population data sources:

- Department of Justice site: LEP.GOV
<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

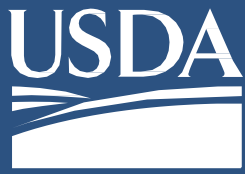
What is the definition of disability?

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)



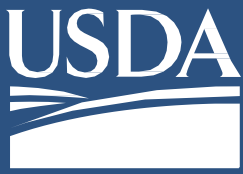
Disability Discrimination

- Section 504 states that “no otherwise qualified individual with a disability in the United States... shall solely by reason of his or her disability, be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.”
- The ADA has similar nondiscrimination requirements that prohibit discrimination on the basis of disability in services, programs, and activities provided by State and local government entities.



Disability Discrimination

- There is an obligation to ensure that members of the public are provided reasonable modifications in order to access program information, applications and assistance (i.e. Braille, large print, and audio tape).
- Providing qualified sign language interpreters or other auxiliary aids and services for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.



Disability Discrimination

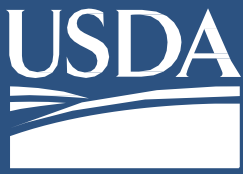
- As programs and offices modernize, it is imperative that websites, including State and local agency websites, and online application systems are readily accessible to and useable by persons with visual impairments and other disabilities.
- In addition, programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
- Programs must permit service animals to accompany people with disabilities in all areas where the public is allowed to go.



Equal Opportunity for Religious Organizations

7 CFR Part 16

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



Civil Rights Training

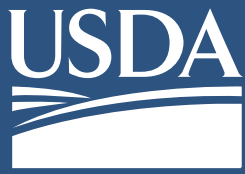
- State agencies are responsible for training subrecipient agencies on an **annual basis**.
- Subrecipient agencies are responsible for training their local sites, including “frontline staff” who interact with applicants or participants on an **annual basis**.
- New employees before participating in Program activities must receive training.
- Volunteers must receive training appropriate to their roles and responsibilities.



Civil Rights Training

All staff should receive training on all aspects of Civil Rights compliance, including, but not limited to:

- Collection and use of data
- Effective public notification system
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable modifications for persons with disabilities
- Requirements for language assistance
- *Conflict resolution*
- *Customer service*



Knowledge Check #3:

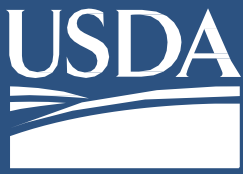
FNS reviewers have asked the CSFP and TEFAP agency to provide verification that annual Civil Rights training was completed timely.

What are some acceptable ways that the agency could use to document or track training and participation?



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

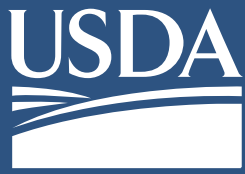
IDENTIFY THE PROBLEM. Identify the problem based on the information the customer gives you.

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.



Complaints of Discrimination

Right to File

Anyone has the right to file discrimination complaints on the bases of any of the protected classes applicable to CSFP and TEFAP:

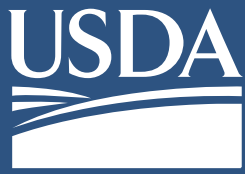
- Race
- Color
- National Origin
- Age
- Sex (including gender identity and sexual orientation)
- Disability

Complaints can also allege **Retaliation** or **Reprisal**.



Complaints of Discrimination

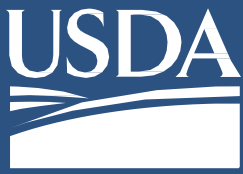
- Complaints must be filed within 180 days from the alleged act of discrimination, with exceptions.
- Complaints may be written, verbal, or anonymous.
- State agencies or subrecipient agencies may develop their own complaint forms, but the use of such forms cannot be a prerequisite for acceptance.
- A separate Civil Rights complaint log shall be maintained by the State & subrecipient agency;
- Confidentiality is extremely important and must be maintained.



Complaints of Discrimination - Elements

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



Complaints of Discrimination

➤ **Complaints based on all protected bases**

- Must be forwarded to FNS Civil Rights Division within 5 calendar days.

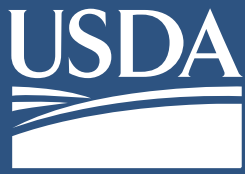
➤ **USDA discrimination complaint form**

- **English**

[https://www.usda.gov/sites/default/files/documents/USDA-OASCR P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf](https://www.usda.gov/sites/default/files/documents/USDA-OASCR-P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf)

- **Spanish**

<https://www.usda.gov/sites/default/files/documents/USDAProgramComplaintForm-Spanish-Section508Compliant.pdf>

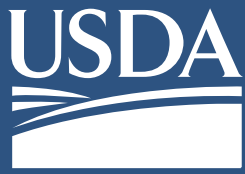


Knowledge Check #4:

FNS reviewers examine a CSFP and TEFAP agency's Complaint Processing policy/procedure and find that some CR complaints are forwarded to FNS for processing while others are investigated and processed by the State Agency and/or local agency.

Under which circumstances is it appropriate for a CSFP and TEFAP agency to investigate a complaint of discrimination rather than refer it to FNS CRD for processing?

- A. When a State agency chooses to do so.
- B. When FNS CRD has authorized the State agency to investigate sex and/or disability complaints.
- C. When a local agency chooses to do so.
- D. None of the above.



Knowledge Check #5:

FNS reviewers requested copies of a State agency's and local agency's Civil Rights complaint log/filing system. Upon review of the printed complaint log, the reviewers find both program complaints and Civil Rights complaints are entered into the same log/filing system. Additionally, all staff have access to this complaint filing system.

Is this acceptable?



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.
- State agencies review their subrecipients.
- Subrecipients review their local agencies.

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



Compliance Reviews

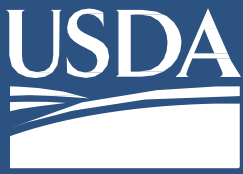
There are three types of compliance reviews:

- 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.



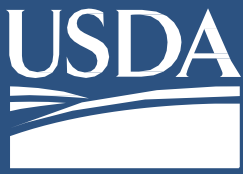
Routine/Post-Award Reviews

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? *(CSFP only)*
- How are applicants and participants advised of their right to file a Civil Rights complaint of discrimination?
- Are reasonable modifications appropriately made for people with disabilities?



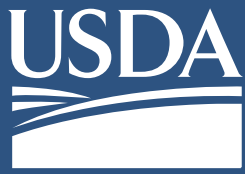
Special Compliance Reviews

- 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.



Knowledge Check #6:

The CSFP and TEFAP State agency's records show that the agency closed findings in several local agency review reports. However, there is no documentation of the corrective actions taken by the local agency.

Is this acceptable?

Questions





Contact Information

Michele Sazo

USDA, Food and Nutrition Service
Mid-Atlantic Regional Civil Rights Officer

Telephone: (609) 259-5061

Email: michele.sazo@usda.gov