

Civil Rights Training

Supplemental Nutrition Assistance Program

Civil Rights Division
USDA, Food and Nutrition Service



Agenda (Optional)

- Civil Rights Program and Legal Authorities

- Areas of Compliance
 - Assurances
 - Public Notification Requirements
 - Complaints of Discrimination
 - Civil Rights Training
 - Race and Ethnic Data Collection and Reporting
 - Disability Compliance
 - Limited English Proficiency (LEP)
 - Compliance Reviews
 - Resolution of Noncompliance
 - Verification of Citizenship or Immigration Status

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 (ADA); ADA Amendments Act of 2008.
 - Disability

Civil Rights Legal Authorities

- ▶ Age Discrimination Act of 1975
 - Age
- ▶ Title IX of the Education Amendments of 1972
 - Sex
- ▶ The Personal Responsibility and Work Opportunity Reconciliation Act of 1996
 - DOJ Memorandum dated 1/28/99, “Policy Guidance Document – Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs.”

Civil Rights Legal Authorities

- ▶ 7 CFR Part 16, Equal Opportunity for Religious Organizations
- ▶ 7 CFR Parts 15, 15a and 15b
 - Nondiscrimination, Education, Disability
- ▶ Executive Order 13166
- ▶ USDA LEP Policy Guidance (79 Fed. Reg. No. 229, page 7077. Friday, November 28, 2014)

Civil Rights Legal Authorities

- ▶ 28 CFR Part 42: Nondiscrimination in Federally Assisted Programs
- ▶ USDA Departmental Regulation 4330-2 (non-discrimination regulations)
 - Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA.
- ▶ FNS Instruction 113-1

SNAP Legal Authorities

- ▶ Food Stamp Act of 1977 as amended by the Food and Nutrition Act of 2008 (religious creed and political beliefs)
- ▶ 7 CFR Parts 271–285
- ▶ 7 CFR 272.4 (provides LEP guidance and thresholds)
- ▶ SNAP Guidance on Non–Citizen Eligibility (June 2011)

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 a protected class.

Protected Classes

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

- Race
- Color
- National origin
- Age
- Sex
- Disability
- Religion
- Political Beliefs

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.
- Allows religious organizations that participate in USDA programs to retain its independence and continue to carryout its mission, provided that direct USDA funds do not support any inherently religious activities such as worship, religious instruction, or proselytization.
- Ensures that no organization that receives direct federal financial service can discriminate against a program beneficiary, or prospective beneficiary, on the basis of religion or religious belief.

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 Civil Rights laws and implementing nondiscrimination regulations.
- An assurance must be included in all agreements between State agencies, local agencies and subrecipients.
- (SNAP)Retailer and vendor agreements must also include an assurance of nondiscrimination.
- See FNS Instruction 113-1, Appendix A

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.

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 agency, Local agency, and subrecipients must:

- ▶ Make program information available to the public;
- ▶ 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 appropriate language(s) for persons with Limited English Proficiency.

Nondiscrimination Statement

SNAP and FDPIR

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, religious creed disability, age, political beliefs 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. 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:

- (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.

Nondiscrimination Statement

SNAP and FDPIR *(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, credo religioso, discapacidad, edad, creencias políticas, 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.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf. 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.

Joint Nondiscrimination Statement

SNAP and FDPIR

This institution is prohibited from discriminating on the basis of race, color, national origin, disability, age, sex and in some cases religion or political beliefs.

The U.S. Department of Agriculture also prohibits discrimination based on race, color, national origin, sex, religious creed, disability, age, political beliefs 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, audiotope, 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.

Joint Nondiscrimination Statement SNAP and FDPIR (Continued)

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.

Joint Nondiscrimination Statement

SNAP and FDPIR (Continued)

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the [State Information/Hotline Numbers](#) (click the link for a listing of hotline numbers by State); found online at: http://www.fns.usda.gov/snap/contact_info/hotlines.htm.

To file a complaint of discrimination regarding a program receiving Federal financial assistance through the U.S. Department of Health and Human Services (HHS), write: HHS Director, Office for Civil Rights, Room 515-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 619-0403 (voice) or (800) 537-7697 (TTY).

This institution is an equal opportunity provider.



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

▶ USDA 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 are forthcoming

“And Justice For All” Poster SNAP and FDPIR

- Display the poster in a prominent location for all to view
- Version AD-475B is for SNAP & FDPIR
- Poster reflects current NDS and new graphic



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;
- Confidentiality is extremely important and must be maintained.

Complaint Processing Procedures

- If approved for processing at the State level:
 - **Must be in accordance with FNS Instruction 113-1**
- If not, complaints received should be forwarded directly to USDA:
 - **Forward within 5 working days**
- Complaints based on age:
 - **Must all be forwarded to FNS within 5 working days**
- Maintain a separate log reflecting only civil rights complaints.

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

- ▶ 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 Training

- ▶ State agencies are responsible for training local agencies/subrecipients on an annual basis.
- ▶ Local agencies and subrecipients are responsible for training their subrecipients/local sites, including “frontline staff” and their supervisors on an annual basis.
- ▶ New employees should receive Civil Rights training before participating in Program activities.
- ▶ 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:

- 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.**



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.

Race and Ethnic Data Collection and Reporting

Recipients of Federal financial assistance must maintain a system to collect racial and ethnic data and report the information in accordance with FNS policy.

The Data is used to:

- Determine how effectively FNS programs are reaching potentially-eligible persons and beneficiaries;
- Identify areas where additional outreach is needed;
- Assist in the selection of locations for compliance reviews; and
- Complete compliance reports as required.
- Data must be maintained for 3 years
- Access restricted only to authorized personnel.

Race and Ethnic Data Collection and Reporting

Data must be collected using a two-part question

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*

Race and Ethnic Data Collection and Reporting

- Ask all program applicants and participants to voluntarily identify all ethnic and racial categories that apply (per OMB guidance).
- Self-identification or self-reporting is the preferred method of obtaining data.
- In instances where racial/ethnic data is collected online, provisions must be made for applicants/participants to self-identify. The ability to verify this data by some manner of signing a printout, etc., must be available.

Race and Ethnic Data Collection and Reporting

- ▶ Visual observation SHALL be used when the applicant does not self-identify.
- ▶ State agency may have categories for race in addition to the ones required by FNS; however, the additional categories must be mapped and extracted to the required categories.

Disability Discrimination

Any 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.

Physical or mental impairment means: (1) any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting any one or more of the body systems.

Disability Discrimination

- The Americans with Disabilities Act Amendments Act of 2008 (P.L. 110–325) expanded the definition of “disability”.
- Major Life Activities now also include: “Major Bodily Functions”, such as, “...function of the immune system,...digestive, bowel, bladder functions, and reproductive systems”
- Individuals who take mitigating measures to improve or control any of the conditions recognized as a disability, are still considered to have a disability and require an accommodation.

Disability Discrimination Visual/Hearing/Mobile Impairments

- 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 accessibility to the program, particularly to persons in wheelchairs and with other mobility disabilities.
- At times, different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services ensure an equal opportunity to participate in FNS programs and services.

Disability Discrimination

Alternate Formats

- ▶ 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) at no cost to applicants or participants.
- ▶ Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.

Disability Discrimination

- ▶ State and local offices must provide Reasonable Accommodations in policies and practices to applicants and participants when necessary.
- ▶ This means that it is almost never appropriate to deny someone a reasonable accommodation based on the fact that the requested accommodation run counter to established policies and practices.

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 Program Access 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.

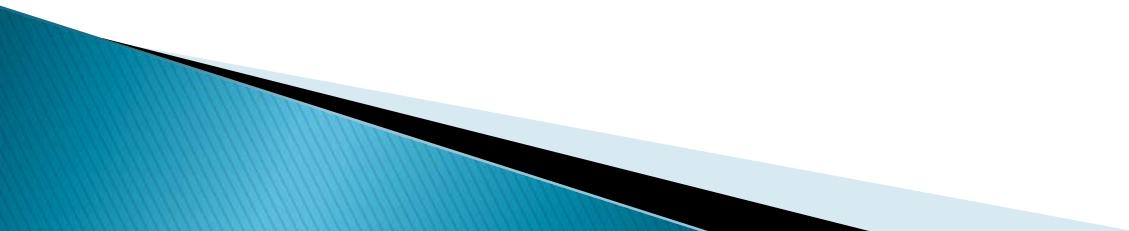
(FNS Instruction 113-1, Section VII)

LEP Program Access Requirements

- Four (4) 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 Program Access Requirements

- States must conduct assessments to determine the language profile for their State, taking into account regional differences and updating as appropriate.
- Competent translation of vital documents and certification materials is required.
- Competent oral translations and interpretation services are also required using qualified interpreters and translators.
- Staff training regarding how to provide LEP populations with meaningful access is paramount (front line 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
- ▶ Examples of language services
 - Bilingual staff
 - Telephone interpreter lines
 - Oral interpretation services
 - Written language services
 - Community organizations and volunteers

Interpretation and Translation Services

- Agency personnel and/or external support
 - Telephonic interpretation service
 - Contract agencies
 - Community partners
 - Competent/qualified interpreters
- Requirements of Interpreter/Translator Services
 - Qualified
 - Competent
 - Accurate
 - Ability to maintain confidentiality
 - Accessible to agency personnel

LEP Populations & 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: national, state and county-level data

Verification of Citizenship or Immigration Status

- Verification should never give rise to discrimination.
- The State agency must give the household the option of withdrawing its application or participating without that household member if that individual does not wish the State agency to verify his/her immigration status.
- In other words, a non-citizen may opt out of the application and still apply for other eligible household members.

Verification of Citizenship or Immigration Status

- State agencies cannot deny benefits to otherwise eligible household members because other members have chosen not to disclose their citizenship, immigration status, or Social Security number.
- A State agency may only verify immigrant status for those applying for benefits and when citizenship is questionable.
- States may not continue to obtain documentation from ineligible non-citizens.

Verification of Citizenship or Immigration Status

- States must assist households with verification.
- Forms and applications should explain that information such as Social Security Numbers are only required for persons applying for benefits.
- Online applications must allow for the submission of information when non-applicant household members (including head of household) do not provide information typically used to establish citizenship or immigration status.



Verification of Citizenship or Immigration Status in All Other FNS Nutrition Assistance Programs

This issue should never give rise to
discrimination.

Compliance Reviews

- Examine agencies and subrecipients to determine Civil Rights compliance.
- FNS reviews State agencies.
- FNS and State agencies review local agencies.
- Local agencies review their subrecipients.
- Major findings should be forwarded in writing to the reviewed entity and FNS.

Compliance Reviews

- Three (3) Types of Compliance Reviews:
 - Pre-approval or Pre-award
 - Post-award or Routine
 - Special

Pre-award Compliance Reviews

FNS and State agencies must evaluate and determine:

- Compliance with Civil Rights requirements prior to approval for Federal financial assistance;
- Pre-approval/pre-award review report must be maintained in the appropriate program files;
- State and Local agencies must update Civil Rights information when significant changes occur.

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 and guidance.



Routine / Post–Award Compliance Reviews

- ▶ 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?
 - 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 Review

- Conducted by FNS Civil Rights Division or USDA's Office of the Assistant Secretary for Civil Rights independently or in conjunction with FNS program or Civil Rights staff.
- 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

Special Compliance Review

- Based on a history of statistical underrepresentation of particular group(s)
- Based on a pattern of complaints of discrimination

Resolution of Noncompliance

Noncompliance is 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 subrecipient receiving Federal funds.

- Findings must be reduced to a written report and provided to the recipient.
- Steps must be taken immediately to obtain **voluntary** compliance.
- A finding's effective date is the date of notice to the reviewed entity.

QUESTIONS