

# CIVIL RIGHTS FOR CHILD NUTRITION PROGRAMS

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Civil Rights Compliance and Enforcement  
Nutrition Programs and Activities

North Carolina Department of Public Instruction  
Child Nutrition Services Section

Revised July 2013

“USDA is an equal opportunity provider and employer”

# What are Civil Rights?



Civil Rights are the nonpolitical rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution and Acts of Congress.

# Food and Nutrition Service (FNS) Instruction 113-1

- Provides related information in one document
- Includes 4 appendices that provide program-specific guidance.



<http://www.fns.usda.gov/cr/Documents/113-1.pdf>

# The Appendices include:

- Appendix A: Food Stamp Program
- Appendix B: Child Nutrition Program
- Appendix C: Food Distribution Programs
- Appendix D: WIC and WIC Farmers Market Nutrition Program (FMNP)
- Appendix E: Sample Complaint Forms
- Appendix F: Complaint Processing and Procedures Flowchart

# Information Areas in the Guidance

- Definitions
- Responsibilities
- Public Notification
- Assurances
- Civil Rights Training
- Data Collection and Reporting
- Compliance Reviews
- Resolution of Noncompliance
- Complaints of Discrimination

# Race, Color, National Origin

Title VI of the Civil Rights Act of 1964 states that *“no person in the United States shall be discriminated against on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity.”*

# Age

The Age Discrimination Act of 1975 provides:

*No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.*



# Sex (Gender)

Title IX of the Education Amendments of 1972 states:

*No person in the United States shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.*





# Handicap or Disability

Section 504 of the Rehabilitation Act of 1973 added disability to Title VI.

Title II and Title III of the Americans with Disabilities Act of 1990 extended the requirements to all services, programs and activities of State and local governments and prohibits discrimination based on disability in other public services.



# 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 if 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.)

Under the Federal Child Nutrition Program and USDA policy, discrimination is prohibited under the basis of race, color, national origin, sex, age or disability.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](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](mailto: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 (in Spanish).

USDA is an equal opportunity provider and employer.”

# Electronic Version of the Statement

“The United States Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, gender (male or female), gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if 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 basis will apply to all programs and/or employment activities).

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## When to use which version of the Nondiscrimination Statement?

- Include entire statement when space permits
- Use shortened version where space is limited:
  - “USDA is an equal opportunity provider and employer.”
- For electronic communications use the statement on the previous slide.

# Applicability

Instruction 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.

# Limited English Proficiency (LEP)

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

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

# Limited English Proficiency

Free & Reduced Application templates are available in many languages on the USDA website [www.fns.usda.gov](http://www.fns.usda.gov)



# Equal Opportunity for Religious Organizations

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

# Equal Opportunity for Religious Organizations

Accomplished by:

- prohibiting discrimination on the basis of religion, religious belief, or religious character
- allowing a religious organization to retain its independence and continue to carryout its mission as long as USDA funds do not support religious activities

# Religious Organizations

- May use facilities to provide USDA-funded service without removing religious art, icons, scriptures, or other religious symbols
- May not be discriminated against for religion or religious belief

For further information: [www.fas.usda.gov](http://www.fas.usda.gov)

# Required Public Notification

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

## 1. Program Availability

Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation.

# 3 Elements of Public Notification

## 2. 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.

## 3 Elements of Public Notification

### **3. 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!





# Public Notification

- Inform about programs and changes
- Provide appropriate format for persons with disabilities.
- Include statement on all materials
- Consistently convey the message of equal opportunity

# Assurances

Nutrition Program application must contain written assurance of compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.

# Civil Rights Education

- State agencies are responsible for educating School Food Authority (SFA) Administrators annually
- SFAs are responsible for annual education of all employees who interact with applicants or participants.

# Civil Rights Education includes:

- Data collection and use
- Public Notification
- Complaints
- Compliance and noncompliance
- Accommodation
- Resolving conflict
- Customer service.

# Collecting and Reporting Participation Data

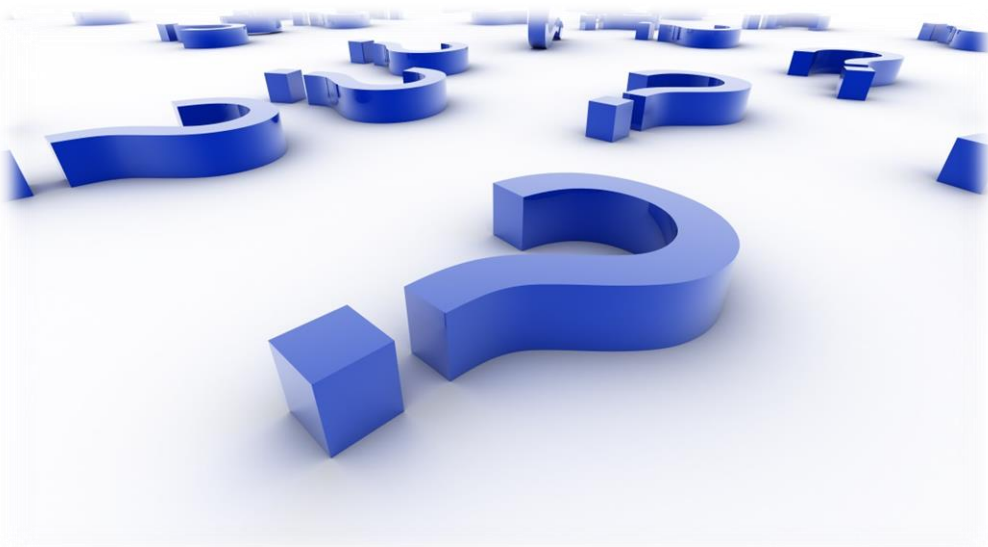
- Must obtain data by race and ethnic category on potentially eligible participants in area
- Establish and maintain data collection systems
- Ask for identification of racial categories that apply
- Self-reported data is preferred

# Collecting and Reporting Participation Data

- Make provisions for self identification when data is collected by on-line methods
- Collect and retain 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)

# QUESTIONS?

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# Compliance Reviews

- State agencies review local agencies.
- Local agencies review sub-recipients.
- 3 types of Reviews
- Must report findings



# Pre-Award

When SFA's are being considered to operate a Child Nutrition Program a Civil Rights Pre-Award is conducted.

# Post-Award for SFA

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 for SFA, cont.

State Agency (SA) evaluates:

- Equal opportunity to participate;
- Case records coded properly
- Posters displayed as required
- Appropriate use of nondiscrimination statement

## Post-Award for SFA, cont.

- Availability of program information
- Data maintained for 3 years
- Complaint processing
- Education

# Compliance Reviews “For Cause”

Conducted upon:

- Indication of benefits not extended properly
- Report of alleged noncompliance
- Documentation of complaint patterns

# Noncompliance 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.

# Noncompliance may result from:

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

# What are examples of noncompliance?

- Denying program benefits or services on protected class basis
- Providing services or benefits in a disparate manner
- Improper selection of advisory members based on protected class
- Selecting program sites in a way that denies access to benefits based on protected class
- Over-verification of categorically eligible participants



# 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

# What next?

- 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

# Ineffective voluntary corrective action

- Provide documentation to FNS-HQ
- Consider additional voluntary action
- Provide additional 30 days for SFA
- Formal enforcement action by FNS for non-resolution
- FNS assistance is suspended or terminated

# Complaints of Discrimination

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

# Complaints of Discrimination

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

# QUESTIONS?

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Contact the Child Nutrition Consultant serving your School Food Authority.