



United States Department of Agriculture

**Civil Rights Training
Supplemental Nutrition Assistance
Program
Nutrition Education and Obesity
Prevention
(SNAP-Ed)**

Civil Rights Division

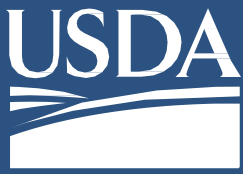
USDA, Food and Nutrition Service

July 31, 2018



Agenda

- Civil Rights Coverage and Legal Authorities
- Areas of Compliance
 - Assurances
 - Public Notification
 - Racial and Ethnic Data Collection
 - Complaints of Discrimination
 - Civil Rights Training
 - Limited English Proficiency
 - Disability Discrimination
 - Compliance Reviews
 - Resolution of Noncompliance
 - Conflict Resolution and Customer Service



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

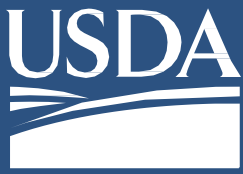
Disability

Title IX of the Education Amendments of 1972

Sex

Age Discrimination Act of 1975

Age



Civil Rights Legal Authorities

7 CFR Parts 15, 15a, 15b

Gives USDA agencies authority to develop Civil Rights requirements

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

Gives equal footing to religiously affiliated organizations

Food and Nutrition Act of 2008, as amended

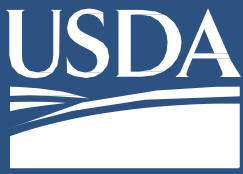
Prohibits discrimination on the basis of race, color, sex, age, national origin, religion, political beliefs or disability

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Enforces Title VI of the Civil Rights Act of 1964 and related statutes in block grant type Programs.

7 CFR Part 271-285

SNAP regulations



Civil Rights Legal Authorities

28 CFR Part 35

Covers nondiscrimination on the basis of disability in State/local government services

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)

"USDA 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, [p. 70771 – 70784] **USDA LEP Policy Guidance**)



Civil Rights Legal Authorities

SNAP Guidance on Non-Citizen Eligibility (June 2011)

Clarifies SNAP policy on non-citizen eligibility

USDA Departmental Regulation 4330-2

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

FNS Instruction 113-1 and Appendix A (SNAP)

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...”

Protected classes for SNAP:

Race

Color

National Origin

Age

Disability

Sex

Religion

Political Beliefs



Assurances

To qualify for Federal financial assistance, an application (SNAP ED Plan) 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

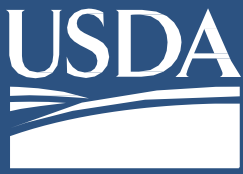
- Federal and SNAP State agencies (Federal-State Agreement)
- SNAP State agencies and implementing agencies
- Implementing agencies and subrecipients (if applicable)



SAMPLE ASSURANCES OF NONDISCRIMINATION FOR STATE AGENCY AGREEMENTS AND CONTRACTS IN SNAP

The State Agency or [Contractor/Subrecipient] agrees to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), section 11(c) of the Food and Nutrition Act of 2008, as amended, the Age Discrimination Act of 1975 (Pub. L. 94-135), and the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504), and all requirements imposed by the regulations issued pursuant to these Acts by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religion, handicap, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under the Supplemental Nutrition Assistance Program (SNAP).

(Continued)



Meaningful Access for Individuals with Limited English Proficiency (LEP)

State Agencies or [Contractors/Subrecipients] that participate in the SNAP must take reasonable steps to ensure that LEP persons have meaningful access to programs, services, and benefits. This includes the requirement to provide bilingual program information and certification materials and interpretation services to single language minorities in certain project areas. SNAP State Agencies or [Contractors/Subrecipients] that do not provide meaningful access for LEP individuals risk violating prohibitions against discrimination based on National Origin in the Food and Nutrition Act of 2008, as amended, Title VI of the Civil Rights Act of 1964 (Title VI) and SNAP program regulations at 7 CFR 272A(b). They also risk noncompliance with the USDA policy guidance titled, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons", published in 79 FR 70771 - 70784 (November 28, 2014).

SNAP State Agencies or [Contractors/Subrecipients] should develop an implementing plan to address the language assistance needs of the LEP population served. This may include contracting for oral interpretation services, hiring bilingual staff, arranging telephone interpreters and/or language lines, coordinating community volunteers, translating vital documents, and providing written notice that language services are available in appropriate languages. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient. USDA's 2014 policy guidance includes detailed information on assessing LEP needs, identifying practices for translating documents that will be seen as strong evidence of compliance. LEP needs should be considered in developing budgets and front line staff should understand how to obtain language assistance services. For additional assistance and information regarding LEP matters, please also visit <http://www.lep.gov>.



Ensuring Equal Opportunity Access for Persons with Disabilities

SNAP State Agencies or [Contractors/Subrecipients] must also ensure equal opportunity access for persons with disabilities. This includes ensuring that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with people without disabilities. State Agencies or [Contractors/Subrecipients] that do not provide persons with disabilities equal opportunity access to programs may risk violating prohibitions against disability discrimination in the Rehabilitation Act of 1978, the American with Disabilities Act (ADA) of 1990, as amended, and SNAP program regulations.

DOJ published revised final regulations implementing Title II and Title III of the ADA on September 15, 2010. These regulations are codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities". In accordance with the implementing regulations, State Agencies or [Contractors/Subrecipients] must provide auxiliary aids and services where necessary to ensure effective communication and equal opportunity access to program benefits for individuals with disabilities. The type of auxiliary aids and services required will vary, but a State Agency or [Contractor/Subrecipient] may not require an individual with a disability to bring another individual to interpret, and may rely on a person accompanying a disabled individual only in limited circumstances. When a State Agency or [Contractor/Subrecipient] communicates with applicants and beneficiaries by telephone, it must provide text telephone services (TTY) or have access to an equally effective electronic telecommunications system to communicate with individuals who are deaf, hard of hearing, or hearing impaired. State Agencies or [Contractors/Subrecipients] must also ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities. For more information, please visit the ADA website: <http://www.ada.gov>.



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

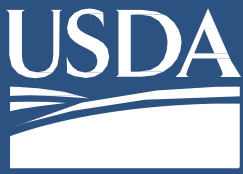
All information materials and sources, including websites, must contain a nondiscrimination statement. The statement is not required to be included on every page of the program website. At a minimum the nondiscrimination statement or a link to it must be included on the home page of the program information.



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



Nondiscrimination 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, 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 (*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.ascr.usda.gov/complaint_filing_cust.html 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.

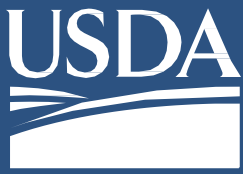


Nondiscrimination Statement

For grantees such as SNAP-Ed, documents developed, adapted, or reprinted by State and Implementing Agencies receiving financial assistance from USDA/FNS must have the following short nondiscrimination statement:

“This institution is an equal opportunity provider” when used specifically for SNAP-Ed.

In general, anything that features USDA logos, such as MyPlate, or communicates SNAP-Ed programming information, including times, dates, and locations as well as objectives and outcomes of classes or activities, falls into this category.



Nondiscrimination Statement

The full nondiscrimination USDA (NDS) statement (slide 15) is rarely, if ever, required for SNAP-Ed.

It is necessary to have the full NDS if SNAP or other FNS program eligibility or application information is provided.

For online sites, individual SNAP-Ed webpages should provide the full version of the nondiscrimination statement if there is information that requires the full statement to be featured even if it is on a different webpage of the site.

A recommendation is to link to the appropriate version, available at <http://www.fns.usda.gov/fns-nondiscrimination-statement>, in the footer of the site. Don't forget to select the appropriate language!

(FY19 SNAP-Ed Guidance Page 156)



Nondiscrimination Statement

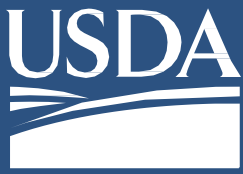
USDA Nondiscrimination Statement

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

- **Available on the FNS Website**

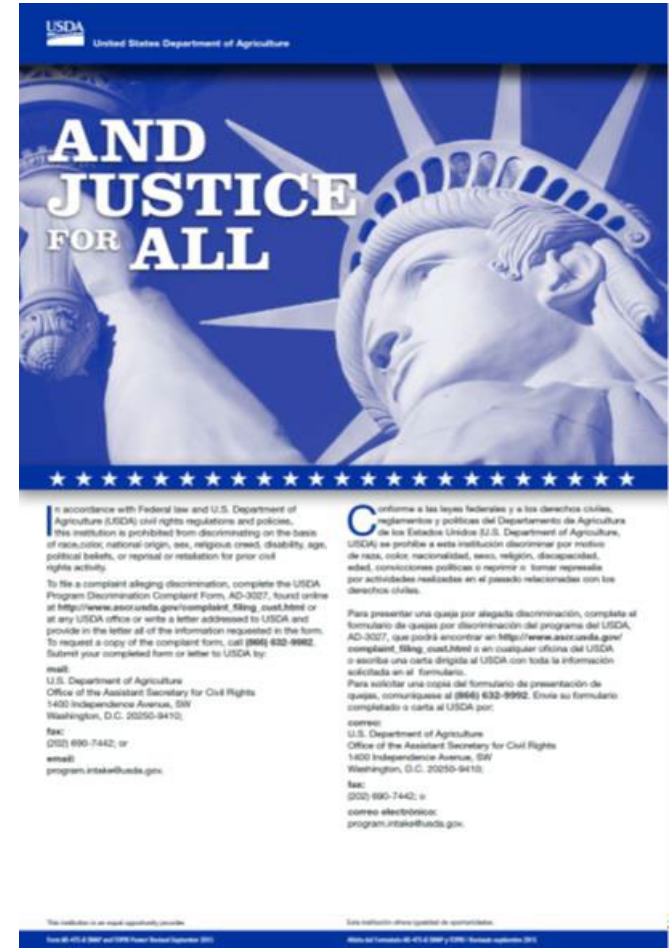


United States Department of Agriculture

"And Justice For All" Poster

Display the poster in a prominent location for all to view

Required version: AD-475B is for SNAP & FDIPIR





Race/Ethnicity Data Collection

As a means of monitoring Civil Rights compliance, state agencies shall establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits.

Purpose:

- To determine how effectively FNS programs are reaching potentially eligible persons and participants,
- To identify areas where additional outreach or services are needed,
- To assist in the selection of locations for compliance reviews, and
- To complete reports, as required.



Race/Ethnicity Data Collection

- Data should be collected at the point of service and the implementing agency will retain it for three (3) years.
- Inform participants that provision of race and ethnic data is requested solely for the purpose of determining the State's compliance with Federal civil rights laws and has no effect on eligibility criteria.
- Notify the public that provision of race and ethnicity data is voluntary.
- Collect ethnicity before race.

Race/Ethnicity Data Collection

- Provide an option to select one or more races.
- Notify the participant that a visual identification of his or her race and ethnicity will be made and recorded in the data system if they decline to self-identify.
- Access restricted only to authorized personnel.
- Submitted as requested to FNS (Education and Administrative Reporting System (EARS) form).



Race and Ethnic Categories - Two Question Format

1. Ethnicity

Hispanic or Latino

Not Hispanic or Latino

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

American Indian or Alaskan Native

Asian

Black or African American

Native Hawaiian or Other Pacific Islander

White



Complaints of Discrimination

Participants have the right to file discrimination complaints.

SNAP agencies are required to inform participants of the option to file a complaint with the USDA.

SNAP State agencies are responsible for conducting the investigation if they have an approved complaint process.



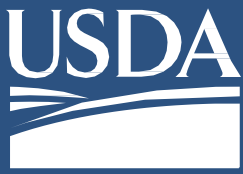
Complaints Should Include

- 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.



Complaint Processing Procedures

- Complaints must be filed within 180 days from the alleged act of discrimination.
- Complaints must be accepted and forwarded to USDA within 5 calendar days.
- Age-based Complaints involve FMCS and must be referred to FNS Civil Rights Division within 5 working days.
- Complaints may be written, verbal, or anonymous.
- Confidentiality is extremely important and must be maintained.
- SNAP agencies may develop their own complaint forms, but the use of such forms cannot be a pre-requisite for acceptance.
- SNAP agencies must maintain a separate log reflecting only civil rights complaints.



Complaints of Discrimination

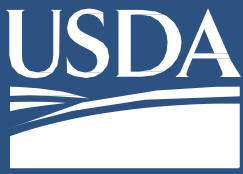
- USDA complaint form

- English version:

- http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf

- Spanish version:

- http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf



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 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 for individuals with limited English proficiency
- **Conflict resolution**
- **Customer service**



Limited English Proficiency (LEP) and Program Access

- **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
- Recipients of Federal financial assistance have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP.
- Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of national origin.



LEP Requirements

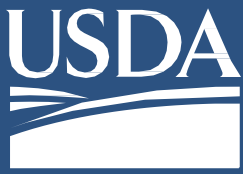
Title VI and its implementing regulations require recipients of Federal financial assistance (State agencies, local agencies, or other subrecipients), to take reasonable steps to ensure “meaningful” access to their programs and activities for individuals with limited English proficiency (LEP).

(FNS Instruction 113-1, Section VII)

LEP Requirements

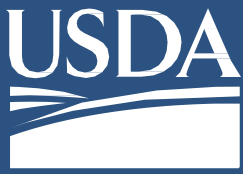
Factors to consider when ensuring “meaningful” access:

- 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



Limited English Proficiency (LEP) and Program Access

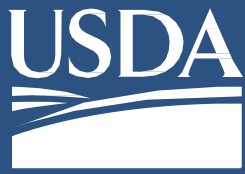
- State agencies must conduct assessments to determine language profile for their State, taking into account regional differences and updating as appropriate.
- Translation of vital documents is required.
- Oral translations and notification of free interpretation services is required.
- Staff training regarding how to provide LEP populations with meaningful access is paramount (frontline staff).



Limited English Proficiency (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

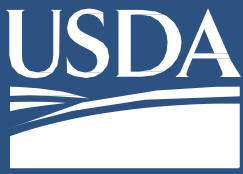
- Examples of language services:
 - Bilingual staff
 - Telephone interpreter lines
 - Oral interpretation services
 - Written language services
 - Community organizations and volunteers



LEP Population and Data Sources

Population data sources:

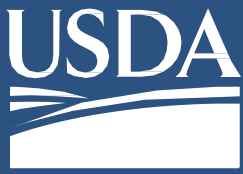
- Department of Justice site: LEP.GOV
<http://www.lep.gov/maps/>
- US Census Data
<http://www.census.gov/2010census/data/>
- American Community Survey
<http://www.census.gov/acs/>
- Migration Policy Institute's National Center on Immigrant Integration Policy
<http://www.migrationpolicy.org/>



Disability Discrimination

Legal Framework: Section 504, ADA/ADAAA and implementing regulations and guidance

- ✓ Section 504 states that “no qualified individual with a disability in the United States shall 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.” (7 CFR 15b)
- ✓ The ADA has similar nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment of persons with disabilities. (28 CFR 35 and 28 CFR 36)



Disability Discrimination

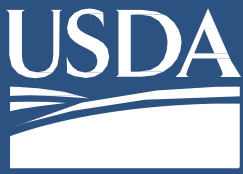
What is the definition of disability?

A person who has a physical or mental impairment which substantially limits one or more major life activity, 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

Reasonable Modifications

A public entity shall make reasonable modifications in policies, practices, or procedure when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. [28 CFR 35.130(b)(7)(i)]



Disability Discrimination

Accessibility

- 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 Other Power-Driven Mobility Devices.
- Programs must provide access for service animals.



Disability Discrimination

Accessibility

- There is an obligation to ensure communication with individuals with disabilities is as effective as communication with others.
- 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.
- Ensure that members of the public are provided reasonable modifications and auxiliary aids and services in order to access program information, applications and assistance (i.e. Braille, large print, and audio tape).



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 local agencies.
- Local agencies review their subrecipients.

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.



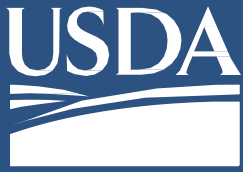
Routine/Post-Award Reviews

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.

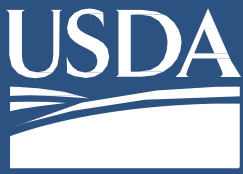
Sample post-award review questions:

- 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?
- 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.

Questions





Contact Information

For more information contact:

Gail A Hoffman, Regional Civil Rights Director,

Southeast Regional Office

Food and Nutrition Service

61 Forsyth St. SW, Suite 8T36

Atlanta, GA 30303

POC Gail.Hoffman@fns.usda.gov

Office: (404)562-7033