

# Civil Rights Training

Food Distribution Program on Indian Reservations  
(FDPIR)

Civil Rights Division  
Food and Nutrition Service, USDA  
June 8, 2016



# Agenda

- ▶ Civil Rights Coverage and Legal Authorities
- ▶ Areas of Compliance
  - Assurances
  - Public notification requirements
  - Complaints of discrimination
  - Civil Rights training
  - Racial and ethnic data collection
  - Limited English Proficiency (LEP)
  - Disability discrimination
  - Equal opportunity for religious organizations
  - Compliance Reviews
- ▶ Questions

# Civil Rights Legal Authorities

- ▶ Title VI of the Civil Rights Act of 1964
  - Race, Color, and National Origin

“No person in the United States shall, on the ground 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 receiving federal financial assistance.”

–Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d

# Civil Rights Legal Authorities

- ▶ Title VI of the Civil Rights of 1964
  - Race, Color, and National Origin
- ▶ Sections 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), & the ADA Amendments Act of 2008
  - Disability
- ▶ Title IX of the Education Amendments of 1972
  - Sex
- ▶ Age Discrimination Act of 1975
  - Age

# Civil Rights Legal Authorities

- ▶ Civil Rights Restoration Act of 1987
  - Clarifies the scope of the Civil Rights Act of 1964
- ▶ 7 CFR Part 16, “Equal Opportunity for Religious Organizations”
- ▶ Executive Order 13166
  - Prohibits discrimination against limited English proficient persons.



# Civil Rights Program Authorities

- ▶ 7 CFR Parts 15, 15a, 15b & 15c
- ▶ 7 CFR Parts 250, 253 and 254
- ▶ 28 CFR Part 42: Nondiscrimination in Federally-assisted Programs
- ▶ USDA Departmental Regulation 4330-2
  - Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA.



FNS Instruction 113-1 and Appendix C (FDPIR)

# What is discrimination?

## DEFINITION:

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...**



# What is discrimination?

Discrimination is defined as: 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...



# Eight Protected Bases

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

- 1) Race
- 2) Color
- 3) National Origin
- 4) Age
- 5) Sex
- 6) Disability
- 7) Religion
- 8) Political Beliefs

# Assurances

- ▶ “To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the Civil Rights laws and implementing nondiscrimination regulations.”
- ▶ A Civil Rights assurance statement must be incorporated in all agreements between Federal & ITOs, and ITOs & their sub recipients.

(FNS Instruction 113-1, Appendix C)

# Public Notification

All FNS 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, including Web sites, used by FNS, State agencies, ITOs, and 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 agencies and ITOs 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 or 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](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](mailto: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, discapacidad, edad, 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](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](mailto:program.intake@usda.gov).

Esta institución es un proveedor que ofrece igualdad de oportunidades.

# Nondiscrimination Statement

At a minimum, the Nondiscrimination Statement should be on:

- ▶ Application Form(s)
- ▶ Notification of Eligibility or Ineligibility
- ▶ Notice of Adverse Action Form
- ▶ Program (Home) Web Page
- ▶ Public Information, including Program literature



# Nondiscrimination Statement

## ▶ USDA Nondiscrimination Statement (NDS)

### ◦ Short version \*

- This institution is an equal opportunity provider.

Spanish

- Esta institución es un proveedor que ofrece igualdad de oportunidades.

\*Can be used in special circumstances only

### ◦ Translations

- Other languages are forthcoming



# 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 ;
- ▶ A **separate** Civil Rights complaint log shall be maintained by the State & subrecipient agency;
- ▶ Confidentiality is extremely important and must be maintained.

# Civil Rights Complaints Process

## Complaints should include:

- ▶ Name, address, and telephone number of the complainant
- ▶ The location and name of the organization or office
- ▶ The nature of the incident or action
- ▶ The names, titles, and business addresses of persons who may have knowledge of the discriminatory action
- ▶ The date(s) during which the alleged discriminatory actions occurred

The basis for the alleged discrimination.

# Civil Rights Complaints Process

## ▶ USDA Discrimination Complaint Form

- English

[http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain\\_combined\\_6\\_8\\_12.pdf](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](http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf)

# Civil Rights Training

- ▶ ITOs/State agencies are responsible for training staff on an annual basis;
- ▶ ITOs/State agencies are responsible for training their sub recipients, including “frontline staff” who interact with applicants or participants on an annual basis;
- ▶ New employees before participating in Program activities;
- ▶ Volunteers must receive training.

# Civil Rights Training

All staff should receive training on all aspects of Civil Rights 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.**

# Racial/Ethnic Data Collection

- ▶ As a means of monitoring civil rights compliance, ITOs/State agencies shall establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits.
- ▶ Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.
- ▶ Data should be collected at the point of application and retained at the service delivery area.

# Racial/Ethnic Data Collection

- ITO/State agencies should compare their participant data with potentially eligible persons within their service areas.
  - If disparities or areas of underrepresentation occur, it will be necessary to investigate the causes for it;
  - Provide additional outreach as needed;
  - Assist with selection of compliance reviews.

# Race and Ethnic Categories

## Two Question Format

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*

# LEP and Bilingual Requirements

Title VI and its implementing regulations, Executive Order 13166, and Federal agency guidance require Federal agencies and recipients (ITOs, 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)

# Who are persons with Limited English Proficiency (LEP)?

## Definition

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.



# LEP and Bilingual Requirements

## 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 and Bilingual Requirements

## Population data sources

- Interagency LEP Website – Mapping Tool  
✓ <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

- ▶ Sections 504 of the Rehabilitation Act of 1973 and USDA implementing Regulation, 7 CFR Part 15b
  - prohibits discrimination based on disability in programs or activities receiving Federal financial assistance.
- ▶ Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A
  - prohibits discrimination on the basis of disability in all services, programs and activities provided to the public by State and local governments.
- ▶ These Civil Rights laws protect persons with disabilities if they are potential applicants or participants in any FNS funded programs.

# Disability 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

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

# Equal Opportunity for Religious Organizations

7 CFR Part 16 notes:

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



# Compliance Reviews

- ▶ Examine the activities of ITOs/State agencies, and sub recipients to determine Civil Rights compliance;
- ▶ FNS Civil Rights and Program staff review State agencies.
  - FNS staff review ITOs/State agencies. ITOs review their sub recipients, if applicable.
- ▶ 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 / Pre-Approval Compliance Reviews

- ITOs, State agencies, and sub recipients must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.

# 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
  
- ▶ 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 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, local agency, or other sub 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?



# Contact Information

Regional Office	Regional Civil Rights Director
<b>Mid-Atlantic</b> <i>Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia</i>	<b>Michele Sazo</b> 300 Corporate Blvd., Robbinsville, NJ 08691 Telephone: (609) 259-5061 Email: <a href="mailto:Michele.Sazo@fns.usda.gov">Michele.Sazo@fns.usda.gov</a>
<b>Midwest</b> <i>Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin</i>	<b>Tamara Earley</b> 77 West Jackson Blvd., 20th Floor, Chicago, IL 60604 Telephone: (312) 353-6657 Email: <a href="mailto:Tamara.Earley@fns.usda.gov">Tamara.Earley@fns.usda.gov</a>
<b>Mountain Plains</b> <i>Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming</i>	<b>Evelyn McGregor</b> 1244 Speer Blvd., Suite 903, Denver, CO 80204 Telephone: (303) 844-0307 Email: <a href="mailto:Evelyn.McGregor@fns.usda.gov">Evelyn.McGregor@fns.usda.gov</a>
<b>Northeast</b> <i>Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont</i>	<b>Stephen Miliano</b> 10 Causeway St., Room 501, Boston, MA 02222 Telephone: (617) 565-6424 Email: <a href="mailto:Stephen.Miliano@fns.usda.gov">Stephen.Miliano@fns.usda.gov</a>
<b>Southeast</b> <i>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee</i>	<b>Gail Hoffman</b> 61 Forsyth St., SW, Room 8T36, Atlanta, GA 30303 Telephone: (404) 562-7033 Email: <a href="mailto:Gail.Hoffman@fns.usda.gov">Gail.Hoffman@fns.usda.gov</a>
<b>Southwest</b> <i>Arkansas, Louisiana, New Mexico, Oklahoma, Texas</i>	<b>Suong Vong</b> 1100 Commerce St., Room 555, Dallas, TX 75242 Telephone: (214) 290-9837 Email: <a href="mailto:Suong.Vong@fns.usda.gov">Suong.Vong@fns.usda.gov</a>
<b>Western</b> <i>Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Northern Mariana Islands, Nevada, Oregon, Washington</i>	<b>Joe Torres</b> 90 Seventh St., Suite 10-100, San Francisco, CA 94103 Telephone: (415) 705-1330 Email: <a href="mailto:Joe.Torres@fns.usda.gov">Joe.Torres@fns.usda.gov</a>

# Presentation Evaluation

Please go to the following web page and rate the trainer:

<https://www.surveymonkey.com/s/MCQXNMY>

Thank you!