

# Civil Rights Compliance in the CHILD NUTRITION PROGRAMS



# Child Nutrition Programs (CNP)

- The Child Nutrition Programs are administered at the Federal Level by the Food and Nutrition Service (FNS), an Agency of the U.S. Department of Agriculture.
- Recipient agencies, distributing agencies, and sub distributing agencies shall comply with the requirements of:

# Civil Rights Authorities

- **The Civil Rights Act of 1964 - race, color, and national origin**
- **FNS Civil Right Instruction 113-1 - overall guidance**
- **Departmental Regulations 7 CFR Parts 15, 15a, 15b and 16.**

# Civil Rights Authorities (Cont'd)

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- **Title IX of the Education Amendments of 1972-Sex**
- **Section 504 of the 1973 Rehabilitation Act-Disability**
- **Age Discrimination Act of 1975-Age**

# Civil Rights Authorities (Cont'd)

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- **Americans with Disabilities Act-  
Disability (state & local government)**
- **Executive Order 13166-serving clients  
With limited English proficiency (LEP)**
- **7 CFR part 16, Equal Opportunity for  
Religious Organizations**

# [ What is Discrimination? ]

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**Discrimination is defined as the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on the protected bases.**

# Prohibited Bases in the Child Nutrition Programs (CNP)

**There are six protected bases:**

- **Race**
- **Color**
- **National Origin**
- **Age**
- **Sex**
- **Disability**

# What is Civil Rights?

**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 by acts of Congress.**

# [ Title VI of the Civil Rights Act ]

**Title VI of the Civil Rights Act of 1964 prohibits recipients of Federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities.**

# Eight Areas of Civil Rights Compliance

- Assurances
- Public Notification System
- Data Collection
- Training
- Compliance Reviews
- Civil Rights Complaints
- Limited English Proficiency
- Equal Opportunity Rule



# Assurances

**To qualify for Federal financial assistance, an application must include a written assurance in all agreements between State and local agencies that the program will be operated in a nondiscriminatory manner.**

## **Assurances (Cont'd)**

**USDA is responsible for monitoring State agencies.**

**State Agencies are responsible for reviewing, approving, and monitoring sub-recipient's/SFAs local agency agreements.**

# Pre-award Compliance Reviews

**Pre-Approval/Pre-Award Compliance Reviews are in the form of desk audit(s) and/or onsite review of specific civil rights information submitted to a State or Local Agency or other sub-recipient agency in the application for Federal financial assistance.**



# Pre-award Compliance Reviews

**No Federal funds shall be made available until a Pre-award Compliance Review has been conducted and the applicant is determined to be in compliance with Title VI.**



# Pre-award Compliance Reviews (Cont'd)

**The following data shall be analyzed during the Pre-award Compliance Review...**



# Pre-award Compliance Reviews (Cont'd)

- **An estimate of the racial/ethnic makeup of the population to be served.**
- **Documentation of efforts used to assure that under-represented populations have an equal opportunity to participate.**
- **Non-discrimination statement on applicant agency's admission requirements.**

# Pre-award Compliance Reviews (Cont'd)

- **Documentation of efforts used to contact minority and grassroots organizations about CNP.**
- **A listing of any Federal agency providing additional financial support to the applicant. (i.e – TEFAP and CSFP)**

# **Routine (Post-award) Compliance Reviews**

- **A Post Award Review is a civil rights review (desk audit and/or on-site) that is conducted after an entity has been authorized to receive Federal financial assistance.**
- **Encompasses all phases of the institution's operation as outlined in civil rights and program regulations.**

## **Routine (Post-award) Compliance Reviews (Cont'd)**

- **State agencies shall conduct Routine Civil Rights Compliance Reviews according to the frequency they conduct Program reviews.**
- **Targeted civil rights reviews should be arranged when there are indications of possible civil rights issues such as...**

## **Routine (Post-award) Compliance Reviews (Cont'd)**

### **Indicators of Possible Problems in Civil Rights Compliance:**

- **Previously un-reviewed institutions;**
- **Newly approved institutions;**
- **Institutions located in areas with diversified under-served populations;**

# [ Prohibited Practices ]

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- **Denying an individual any service, financial aid, or other benefit provided under the program which has the effect of defeating or substantially impairing the accomplishment of the objectives of the Title VI.**
- **Providing any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program.**
- **Subjecting an individual to segregation or separate treatment in any manner related to receipt of any service, activity or benefit under the program.**

# [ Prohibited Practices Cont. ]

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- **Institutions located in areas with a significant low-income minority population; and**
- **Admission requirements or procedures which restrict or deny benefits.**

## **Prohibited Practices (Cont'd)**

- **Restricting an individual or group of individuals in any way in the enjoyment of any advantage or privilege enjoyed by others receiving such services and other benefit under the program.**

# **[ Prohibited Practices (Con'd) ]**

- **Selecting members of planning and advisory bodies in such a way as to exclude persons from membership on the basis of race, color, national origin, age, sex, or disability.**
- **Any difference in quality, quantity, or manner in which the benefit is provided.**

# **Prohibited Practices (Cont'd)**

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- **Adopting standards or requirements for participation which have as their purpose or effect of excluding members of certain racial or ethnic minorities.**

# **[ Prohibited Practices (Con'd) ]**

- **Retaliating against a person because he/she has filed a complaint.**
- **Refusing to assist a qualified disabled person access to the program services and or activities.**

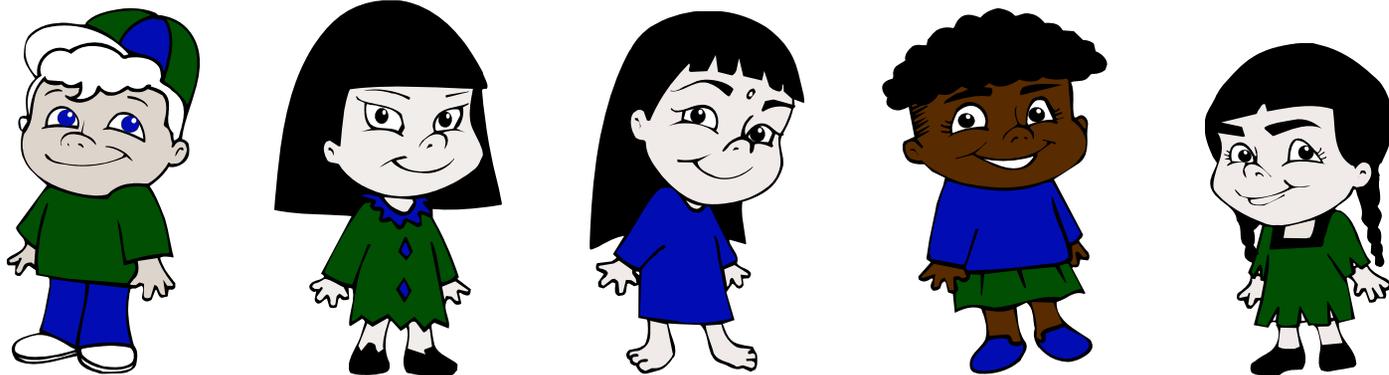
# Compliance Reviews

**Review questions that should be addressed by the State Agency....**



# Compliance Reviews (Cont'd)

**Do potentially eligible persons have an equal opportunity to participate in the program? And is the program advertised?**



# **Public Notification System**

**The purpose of a public notification system is to inform applicants, participants and potentially eligible persons of the program availability, program rights and responsibilities, the nondiscrimination policy, and the procedures for filing a complaint.**

# Public Notification System

## Three Elements of Public Notification:

1. Program Availability
2. Complaint Information
3. Nondiscrimination Statement



# **Public Notification System Requirements**

- **Publicize program to all, including underserved populations and the entities that service them;**
- **Provide information in alternative formats, including web-based information, for persons with disabilities;**

# **Public Notification System Requirements**

- **Display the “And Justice For All” poster in a prominently visible location at all application and distribution sites.**

# **Public Notification System Requirements (Cont'd)**

- **Use the Nondiscrimination Statement on all applicable publications;**
- **Convey the message of equal opportunity in all photos and other graphics and all materials distributed to the public.**



# **Compliance Reviews (Cont'd)**

**The Nondiscrimination Statement included on all printed materials such as applications, pamphlets, forms or any other program materials distributed to the public.**

# [ Nondiscrimination Statement ]

## Full Statement

The U.S. Department of Agriculture 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 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.(Continued)

# Nondiscrimination Statement

(Continued)

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 (Spanish). USDA is an equal opportunity provider and employer.

# Nondiscrimination Statement

## Minimum Statement

If the material is too small to permit the Full Statement to be included, the material will at a minimum include one of the following statements, in print no smaller than the text, the **“This institution is an equal opportunity provider”** or **“The \_\_\_\_\_ is an equal opportunity provider.”**

For the internet, radio and television public service announcements, the nondiscrimination statement does not have to be read in its entirety but submitted in its entirety.

A nondiscrimination statement is not required to be imprinted on caps, buttons, magnets, and pens that identify the program when the size or configuration makes it impractical.

# **Compliance Reviews (Cont'd)**

**Is program information available to potential eligible persons, program applicants and participants upon request?**

**Is program information provided in a bilingual manner where services are being delivered in a language minority area?**

# Compliance Reviews (Cont'd)

**Are program changes publicized to participants regarding significant program changes, eligibility standards, new locations, hours of operation, etc?**



## **[ Compliance Reviews (Cont'd) ]**

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**Are program civil rights complaints handled in accordance with procedures outlined in FNS Instruction 113?**

**Complaints must be immediately forwarded from the local level up to the State, and on to the regional civil rights office, no later than five business days.**

# [ Compliance Reviews (Cont'd) ]

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**Is the Civil Rights Discrimination  
Complaint information displayed  
and accessible to all applicants and  
participants?**

# [ Compliance Reviews (Cont'd) ]

**Has the local agency or site conducted civil rights training for its staff? If yes, when? If not, is it scheduled?**



# Serving Clients with a Qualified Disability

- All staff should be aware of the requirement to assist persons with disabilities as needed.
- 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 is considered disabled.
- Major life activity means functions such as caring for one's self, performing manual tasks, walking, speaking, seeing, hearing, breathing, learning and working.

# Serving Clients With Disabilities

- **A recipient of Federal financial assistance shall make a reasonable accommodation for the known physical or mental limitation of an otherwise qualified applicant, or participant to ensure equal access to the programs benefits, services and activities.**
- **The State and local agency has the responsibility to provide and pay for a sign language interpreter upon request to a hearing impaired individual**
- **The program shall be operated in a manner that when viewed in it's entirety, is readily accessible to and usable by qualified disabled individuals.**

# **Civil Rights Training (Cont'd)**

**All staff should receive training on all aspects of civil rights compliance.**

- **Staff should be able to identify a civil rights complaint if received.**
- **They should know what to do if they receive a complaint.**
- **Understand that it is the basic right of the individual to file a complaint.**

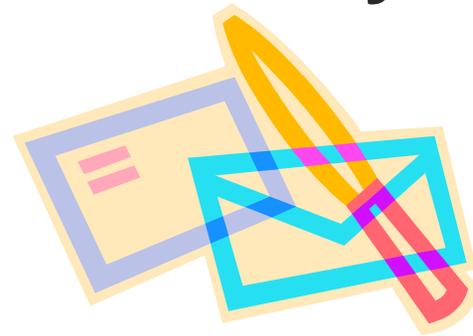
# Civil Rights Complaint Handling

**Right to File a Complaint: Any Person alleging discrimination based on race, color, national origin, age, sex, or disability has a right to file a complaint within 180 days of the alleged discriminatory action.**



# Civil Rights Complaint Handling (Cont'd)

**Acceptance: All civil rights complaints, written or verbal, shall be accepted and forwarded to the address on the poster or directly to an FNS Regional Office in your region.**



# Civil Rights Complaint Handling (Cont'd)

- **All complaints filed at the local level shall be forwarded to the address on the “And Justice for All” poster or the appropriate regional director within 5-calendar days of receipt.**
- **Complaints can be written or verbal.**
- **Anonymous complaints should be handled as any other complaint.**
- **Protect the identity of the complaint as much as possible.**

# [ Complaint Handling Cont. ]

- **State agencies can develop complaint forms, but the use of such forms cannot be a prerequisite for acceptance of a complaint.**
- **In the event a complainant makes a allegation verbally or in person and refuses or is not inclined to place such allegations in writing, the person to whom the allegations are made must write up the elements of the complaint for the complainant. Every effort must be made to have the complainant provide the following information.**



## ***Contents Of A Civil Rights Complaint***

- **Name, address, and telephone number of the complainant.**
- **Specific location and name of the entity delivering the service or benefit.**

## ***Contents Of A Civil Rights Complaint***

- **Nature of the incident or action that led the complainant to feel discrimination was a factor, or an example of the method of administration which is having an effect on the public, potential participants, or participants.**

# Limited English Proficiency (LEP)

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**Where a significant number or proportion of the population eligible to be served needs service or information in a language other than English in order to be informed of or to participate in the program, the recipient shall take reasonable steps to provide information in appropriate languages to such persons.**

# Limited English Proficiency (LEP) (Cont'd)

Factors to consider in addressing Limited English Proficiency needs...

- Number of LEP individuals participating in the Program.
- Frequency of contact with the Program.
- Nature and importance of the Program.
- Resources available.

# Equal Opportunity For Religious Organizations

- **Faith-based and Community-based organizations (FB/CBO) create new opportunities to serve more people in need.**
- **USDA is working to ensure that FB/CBO have equal access to USDA funding opportunities especially those groups that have not partnered with the Government before.**

# Equal Opportunity Rule (Cont'd)

## FOUR GUIDING PRINCIPLES:

- No organization in the administration or distribution of Federal funds will be discriminated against on the basis of religion, religious belief, or religious character;
- Religious organizations retain their independence to carry out their mission, provided that direct USDA funds do not support any inherently religious activities such as religious instruction, or **proselytization**;

# Equal Opportunity Rule (Cont'd)

- **Faith-based organizations can use space in their facilities to provide USDA-funded services without removing religious art, icons, scriptures or other religious symbols; and**
- **No organization that receives USDA funds can discriminate against a program beneficiary, or prospective beneficiary on the basis of religion or religious beliefs.**

# Steps to Remove Barrier and Improve program Access

- **Be informed about your agency's Public Notification process.**
- **Use it to your advantage, a well informed applicant/client needs less attention.**
- **Put applicant/clients at ease by informing them of the rules and responsibilities for participation upfront.**

## [ Removing Barriers Cont. ]

- **Assist clients in seeking and transferring documents as needed for certification purposes.**
- **Define service locations and times of operation in writing to avoid confusion.**

# Certification of Review

This is to certify that the Civil Rights slides have been reviewed.

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School/Local Agency

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Date

Print this certificate and have attendees sign the back of this document.

Keep with Child Nutrition Program records to use as documentation for program review.

All records must be kept for three years past the current year.

# Resources



This presentation was developed  
directly from 7 CFR Part 248/249,  
and the FNS Instruction 113-1  
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