



CIVIL RIGHTS TRAINING



Food & Nutrition Services (FNS) 113-1 Overview

- Collection of Civil rights requirements for FNS nutrition programs
<http://www.fns.usda.gov/CR/Documents/113-1.pdf>
- Contains references, definitions, and responsibilities
- Some rules apply to all programs
- TEFAP specific rules covered in Appendix C



RESPONSIBILITIES FOR CIVIL RIGHTS

U. S. Department of Justice



Federal Departments – USDA



Federal Agencies – FNS



Recipients of Federal financial assistance
(State & local providers)



FEDERAL FINANCIAL ASSISTANCE



- Anything of value received from the Federal government
- Includes cash grants, commodities, training, excess computers, loans, property donations, and other goods and services provided with Federal Funds.

FEDERAL FINANCIAL ASSISTANCE

- TEFAP commodities constitute Federal financial assistance
- Acceptance of Federal financial assistance requires the recipient of the assistance, no matter how minimal, to assure compliance with Federal civil rights laws and requirements.



FEDERAL FINANCIAL ASSISTANCE

- TDA Food & Nutrition (F&N) programs are funded by federal dollars with USDA serving as the “pass-through” agency. Since these dollars are drawn from taxpayers across the nation, taxpayers are entitled to equal use of the programs. In essence, the tax dollars are to be used for the benefit of ALL eligible persons.
- All levels of staff, contractors, volunteers, etc., involved in any aspect of the USDA nutrition programs must complete annual Civils Rights training. The training must be completed by all new staff, contractors, volunteers, etc., before they begin any program related duties. In addition, training must be documented.



FEDERAL FINANCIAL ASSISTANCE

Contracting Entities (CEs) are responsible for training their full or part-time staff, contractors, volunteers, etc. Including:

- any who interact with applicants and participants or their parents or caretakers;
- people who make eligibility determinations or manage or collect data;
- servers, cooks, superintendents, principals, caregiver, volunteers who have program duties; and
- those who supervise during meals or take meal counts

There are a variety of programs and sites that receive this training, not all examples in this training will apply to everyone



SITUATION #1

A large public agency runs a number of different programs. It accepts Federal funding and commodities to run the CSFP. It also operates food pantries that are stocked and funded entirely by parish donations without Federal commodities or other funding. Do the pantries have to adhere to Federal civil rights rules?



Situation 1 Answer

- ANSWER: **Yes.** Acceptance of Federal financial assistance obligates the recipient to adhere to Federal civil rights requirements in all aspects of its operations. Also, if discrimination is found and the recipient of the Federal financial assistance refuses or fails to correct the problem, Federal assistance from ALL sources (i.e. all federal agencies that provide assistance) needs to cease



GOALS

- Equal, fair, and respectful treatment of all applicants and beneficiaries
- Elimination of illegal barriers that prevent or deter people from receiving benefits
- Knowledge of rights and responsibilities



DISCRIMINATION

Different treatment that makes a distinction of one person (or group) from others, either intentionally, by neglect, or by actions or lack of actions based on protected classes.

Examples:

- Delayed benefits or services
- Denied benefits or services
- Disparate treatment – inconsistent application of rules or policies to one or more protected classes



UNLAWFUL DISCRIMINATION

Unlawful discrimination in any form is strictly prohibited and can be intentional or unintentional. Examples include:

- Closing programs in easily accessible areas while maintaining programs in less accessible areas
- Serving larger portions to one group and not another
- Separating genders
- Failing to provide persons with special needs accommodating meals
- Failing to provide materials in a language specific to the prevalent populations of the community



Types of Discrimination

- **Disparate treatment** – Someone of a protected class who is treated differently may sue the agency.
- **Disparate impact** – Results from action or rule from the complaint about the agency
- **Reprisal/Retaliation** – Negative treatment due to prior civil rights activity by an individual or his/her family or known associates or for cooperating with an investigation – may sue agency.



SITUATION #2

An Asian woman filed a complaint with the State that the commodity boxes looked shabby. She tells you that ever since then the delivery people have been coming later in the day and are no longer friendly. Is this a discrimination complaint and if so, what kind and how should it be handled?



Situation #2 Answer

- Answer: Unless she is alleging that everyone in the Asian community receives commodities of inferior quality or that she is being treated differently because she is a member of a protected class, this would not be a valid civil rights complaint and should be handled as a program complaint. In order to qualify as retaliation, the person must have engaged in prior **CIVIL RIGHTS ACTIVITY**.



Situation #2 Answer

- Answer cont'd:

If her complaint about shabby boxes alleged that she received them because she was being singled out for bad treatment because of her race, color, national origin, age, sex, or disability or that members of her community received “shabby boxes” while others received something better, that would not qualify as prior civil rights activity. While part of civil rights includes providing good customer service, failure to do so unless it is related to a protected class does not qualify as a civil rights complaint.



RESPONSIBILITIES

- Compliance with civil rights laws, regulations and requirements
- Training
- Other language services
- Equal treatment for religious organizations
- Public notification
 - Data collection and reporting
 - Compliance reviews
 - Complaint processing
 - Accommodating persons with disabilities
 - Resolving conflicts
 - Customer Service



LIMITED ENGLISH PROFICIENCY (LEP)

- National origin discrimination violating Title VI of Civil Rights Act of 1964
- People with limited English proficiency (LEP) need to be served in other languages
- Generally, service must be provided – flexibility in how it is provided



LIMITED ENGLISH PROFICIENCY (LEP)

How service is provided depends on:

1. Number & proportion of LEP persons served or encountered in eligible population;
2. Frequency of LEP persons' contact with program;
3. Nature & importance of program, activity, or service; and
4. Resources available and costs.

**SHORTAGE OF RESOURCES DOES NOT ELIMINATE REQUIREMENT
EXCEPT IN CASES OF EXTREME HARDSHIP!!!!**



LIMITED ENGLISH PROFICIENCY (LEP)

- Volunteers may be used, but make sure they understand interpreter ethics – particularly **confidentiality!**
- Children should not be used as interpreters.
- See www.lep.gov for resources & information.



SITUATION #3

In order to insure that there are interpreters available, a food pantry wants to mandate that all Spanish speaking participants be served on the second Friday of each month. Is this allowable since the intent is to provide good service and not to discriminate?



Situation #3 Answer

ANSWER: This would not be allowable because it is a form of segregation based on national origin. The pantry needs to accommodate people whenever they need assistance. The pantry could advertise days on which it has interpreters on site, but people who speak a particular language cannot be required to come only on certain days.



DISABILITY ACCOMMODATIONS

INSURE ACCESS FOR PEOPLE WITH DISABILITIES!

- Parking lot, entrances & exits, halls, elevators, rest rooms, sign language interpreters, braille signage, service animal
- Alternative arrangements for service
- Check ADA guidelines for specifics

www.usdoj.gov/crt/ada/adahom1.htm



EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

USDA Regulations at 7 CFR 16 require equal opportunity for Faith Based Organizations (FBO's) and Community Based Organizations (CBO's)



EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

- Discrimination is prohibited against an organization on the basis of religion, religious belief or character in the distribution of funds
- FBOs can use space in their facilities without removing religious art or symbols



EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

Beneficiaries also protected!

- No organization that receives direct assistance from the USDA can discriminate against a beneficiary or prospective beneficiary on the basis of religion or religious belief
- FBOs retain their independence and carry out their mission, as long as USDA funds or activities do not support worship, religious instructions or proselytization



EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

-EXCEPTION-

7 CFR 16.3 (c) provides that religious organizations that receive USDA assistance under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., or USDA international school feeding programs may consider religion in their admissions practices and impose religious attendance or curricular requirements at their schools.



SITUATION #4

As part of its meal service, a soup kitchen wants to require a prayer before the meal. Is this allowable, and are there any exceptions or special requirements?



Situation # 4 Answer

ANSWER: As a rule, proselytization is prohibited under the faith based rules.

HOWEVER, a prayer may be said before a meal but the person conducting the activity must make it clear that: 1) the activity is not part of TEFAP and not endorsed by USDA; 2) cooperation and participation in the activity is not a condition of receipt of TEFAP benefits; 3) the activity is not conducted in a manner that disrupts TEFAP commodity distribution or meal service.



PUBLIC NOTIFICATION

- Outreach/communication
- People need to know about TEFAP and know their rights
- Underserved populations need special attention and special efforts
- Market your program and the fact that it does not discriminate!



PUBLIC NOTIFICATION



- Contact community groups & advocacy groups
- Display the “And Justice for All” poster
- Include the required nondiscrimination statement on all appropriate FNS and agency publications, Web sites, posters and information materials.
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information

PUBLIC NOTIFICATION

- Conduct outreach to underserved groups
- Use special formats to reach disabled
- Use other languages to reach people with limited English proficiency
- Be Creative! TV, radio, posters, flyers, supermarket bulletin boards, local clubs, libraries, schools, special events, fairs, mailings, Internet, web site links.....



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, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA

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 Assistance 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

USDA is an equal opportunity provider.



NONDISCRIMINATION STATEMENT

SHORT VERSION:

“This institution is an equal opportunity provider.”

- ✓ May be used where the longer statement does not fit.
- ✓ Must be in font size no smaller than font size used in rest of publication
- ✓ Should not be used where information on rights is provided.



NONDISCRIMINATION STATEMENT

WEB SITES

- ✓ Include the long statement or a link to it on web sites that discuss FNS funded programs. Must be on home/landing page at a minimum!
- ✓ Include the long or short statement on materials intended to be printed off the web site.

SITUATION #5

A State prints an informational brochure about TEFAP in another language. Since the nondiscrimination statement is very technical and the population is not well educated, it is felt there is no need to include it. Also, it would also take up too much space. Is this decision correct?

Why or why not?



Situation #5 Answer

- **ANSWER:** The nondiscrimination statement needs to be translated and put on the brochure. The shorter statement could be used if it is in a font size the same as the rest of the print in the brochure. If the brochure contains information on rights and responsibilities, the longer statement should be used.



ASSURANCES

- Required to receive Federal assistance
- No discrimination based on race, color, national origin, age, sex, disability, or any of the other protected classes now listed in the new statement.
- Program will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines
- Compile data, maintain records, submit reports
- Allow reviews & access



Discrimination Definitions

National Origin Discrimination

Unfair treatment or bias against someone or a group of people because they appear to be from a particular country or part of the world, ethnicity or accent, or they appear to be of a certain ethnic background

Age Discrimination

Unfair treatment in recruitment, promotions, or granting of privileges on the basis of age of the recipient.



Discrimination Definitions

Race Discrimination

Unfair treatment or bias against someone or a group of people based on their race. USDA racial categories include: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White (including Hispanic/Latino).

Sex Discrimination

Unequal treatment on the basis of sex (gender). The treatment must not simply be different, but also unequal, and therefore unfair.



Discrimination Definitions

Disability Discrimination

Unequal treatment of an individual based on that individual's real or perceived disability.

Color Discrimination

Unfair or unequal treatment or bias of an individual or group of persons based on the social meanings attached to skin color.



TRAINING

- People involved in all levels of administration of programs that receive Federal financial assistance need to understand civil rights related laws, regulations, procedures and directives.
- Frontline staff who interact with program applicants or participants and supervisors of frontline staff must receive annual training.



TRAINING

- Persons responsible for reviewing civil rights compliance need special training to preform review responsibilities.
- States and local agencies have flexibility in how to provide training – classroom, on line, staff meeting, etc. are all possibilities.



TRAINING

Certain topics must be covered:

- ✓ Collection and use of data;
- ✓ Effective public notification systems;
- ✓ Complaint procedures;
- ✓ Compliance review techniques;
- ✓ Resolution of noncompliance
- ✓ Reasonable accommodation of persons with disabilities;
- ✓ Language assistance;
- ✓ Conflict resolution; and
- ✓ Customer service



SITUATION #6

Most of the people who work with a local TEFAP site are volunteers. Do they need to be trained, and if so, why do they need to know about compliance review techniques and data collection?



Situation #6 Answer

ANSWER: Any front line workers, including volunteers, need to be trained when they first come on the job and then annually. They may not need in-depth information on compliance review techniques and data collection, but they need to know that these are requirements.



DATA COLLECTION & REPORTING

- See Census Quick Facts <http://quickfacts.census.gov/qfd/> for info by county for each State
- See Census Bureau web site www.census.gov for other data that is available
- Data is a starting point. It is necessary for us to know communities you work in to properly interpret and apply data.



SITUATION #7

The leader of a charitable organization that makes large donations to the operations of a food pantry requests a list of all Hispanic participants so that they can be given special holiday baskets. Does this pose any civil rights problems and how should you respond to this request?

Situation #7 Answer

ANSWER: This poses a number of problems.

1. It would violate the confidentiality provisions of data collection. Data on ethnicity and race must be kept confidential and should not be made available on an individual basis.
2. What this person proposes to do violates Title VI because the distribution would be limited to people based on national origin and would not be available to everyone. By complying with the request, the food pantry would be helping to discriminate, and this is not allowed.



COMPLIANCE REVIEWS

- Pre-award, post-award, and special
- Check for non-discrimination and insure civil rights requirements being followed
- Conducted by State or Federal, staff or both



RESOLUTION OF NONCOMPLIANCE

CORRECTIVE ACTIONS:

- Cease inappropriate actions
- Institute appropriate procedures

**FAILURE/REFUSAL CAN RESULT IN LOSS OF
FEDERAL ASSISTANCE FROM ALL
FEDERAL SOURCES!**



COMPLAINTS

Be aware of the bases for which complaints may be filed: *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*

- ✓ **Never discourage groups or individuals from filing complaints or from voicing allegations of discrimination.**
- ✓ ***Know where to file a complaint – USDA***
- ✓ ***FNS Instruction 113-1 outlines complaint investigation procedures.***



COMPLAINTS

An allegation of discrimination that results in disparate treatment or services being provided differently to person or groups in a protected class.

- WFAFB must report all complaints to TDA
- Complainants have 180 days to file
- May be oral or written
- Must be kept confidential



COMPLAINTS

To file a complaint, complainants may write to: USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (866) 632-9992

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).



CONFLICT RESOLUTION

- Have a written and posted policy for dealing with unacceptable behavior and conflicts
- Try to remain calm
- Try to explain situation
- Get help, especially if threats or if violence is possible
- Use alternative dispute resolution (ADR) techniques

SITUATION #8

Someone comes to the food pantry smelling of alcohol and speaks in a loud voice using language laced with profanities. You ask security to remove this person from the premises and the person accuses you of discrimination and threatens to complain.

What should you do?

Situation #8 Answer

ANSWER: Ideally you would have a policy that outlines unacceptable behavior and penalties and you insure that it is enforced uniformly. You could give the person a copy of the policy and also provide information on how to file a complaint.



CUSTOMER SERVICE

**“Treat others the way they want to be treated
(or at least be aware of what that is).”**

- Be patient.
- Be polite.
- Avoid sarcasm.
- Be empathetic. Understand that people may not know the rules or understand how programs work. They may feel uncomfortable coming to ask for help.
- Smile when appropriate – make people feel welcome and valued.
- Explain policy and let them know you will get in trouble if you do anything that violates the rules.
- Don't be afraid to apologize.
- Don't feel you need to have the last word.



On-Line Training

www.squaremeals.org

- ✓ Click on F & N Resources
- ✓ Click on Training (then)
- ✓ Click on on-line education & self study
- ✓ Click on plus sign out beside – Other on-line education & self study
- ✓ Click on Civil Rights - English



CIVIL RIGHTS TRAINING

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