



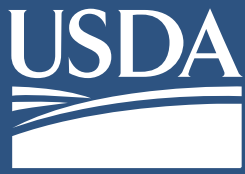
United States Department of Agriculture

# **Civil Rights Training Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP) & USDA Foods**

Civil Rights Division

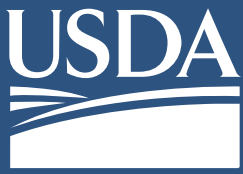
USDA, Food and Nutrition Service

**FNS CRD Webinar  
May 2023**



## Agenda

- Civil Rights Authorities
- Civil Rights Review Areas
  - Assurances
  - Public Notification Requirements
  - Race and Ethnicity Data Collection
  - Complaints of Discrimination
  - Compliance Reviews
  - Resolution of Noncompliance
  - Civil Rights Training
  - Limited English Proficiency (LEP)
  - Individuals with Disabilities



## Civil Rights 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 (ADA) of 1990 and ADA Amendments Act of 2008

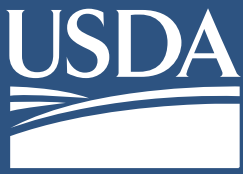
- Disability

Title IX of the Education Amendments of 1972

- Sex

Age Discrimination Act of 1975

- Age



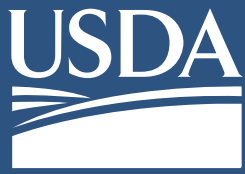
## More Civil Rights Authorities

7 CFR 15(a)(b)(c)

USDA implementing regulations for Federally assisted programs

7 CFR 16, "Equal Opportunity for Religious Organizations"

Gives equal footing to religiously affiliated organizations



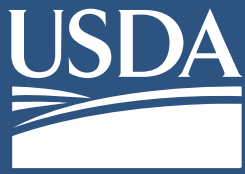
## Other Federal Civil Rights Authorities

28 CFR 35

Covers nondiscrimination on the basis of disability in State/local government services (public entities)

28 CFR 42

Covers nondiscrimination in Federally assisted programs

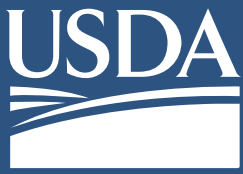


## Civil Rights Executive Orders/Guidance

Executive Order 13166 - "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121, August 11, 2000)

Executive Order 13988 – "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation" (86 FR 7023, January 20, 2021)

"USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency" (79 FR 229, November 28, 2014)



United States Department of Agriculture

## **USDA Civil Rights Authorities**

USDA Departmental Regulation 4300-003

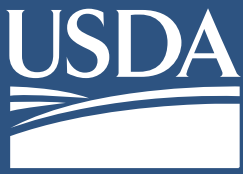
**Equal Opportunity Public Notification Policy**

USDA Departmental Regulation 4330-002

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

FNS Instruction 113-1 and Appendix C

**Civil Rights compliance and enforcement**



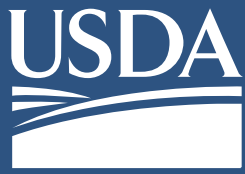
## Program Authorities

CSFP: Sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86), as amended.

TEFAP: The Emergency Food Assistance Act of 1983 (Public Law 98-8), as amended.

USDA Foods: Section 6 and Section 13(h) of the Richard B. Russell National School Lunch Act (Public Law 79-936), as amended; Child Nutrition Act of 1966 (Public Law 89-642), as amended





## **More Civil Rights and Program Authorities**

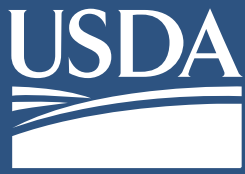
7 CFR Parts 15, 15a & 15b  
(Nondiscrimination)

7 CFR Part 16 (Religious Org Participation)

7 CFR Parts 247 & 250 (CSFP)

7 CFR Parts 250 & 251 (TEFAP)

7 CFR Part 250 (USDA Foods)



## 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 based on a protected class”

Protected classes:

Race

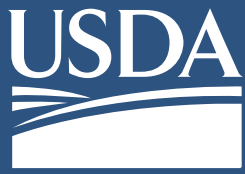
Color

National Origin

Age

Disability

Sex (including gender identity and sexual orientation)

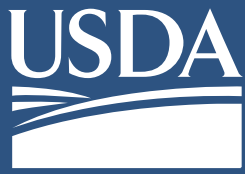


## Assurances

To qualify for Federal financial assistance, an application 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 State agencies (FNS Form 74)
- State agencies and local agencies or subrecipients
- Local agencies and subrecipients (if applicable)



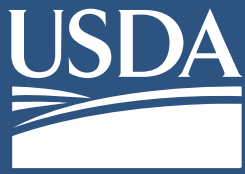
## Public Notification

- 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

### **State agencies and their subrecipients must:**

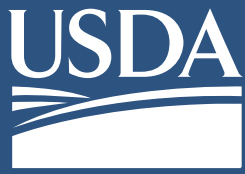
- Make program information available to the public upon request.
- Prominently display the “And Justice for All” poster.



## **Elements of Public Notification - continued**

### **State agencies and their subrecipients must:**

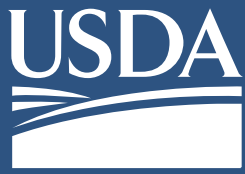
- Inform potentially eligible persons, applicants, participants and community organizations of programs or changes in programs.
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information.



## Public Notification Requirements

### States and their subrecipients must:

- Notify persons with disabilities about the availability of reasonable modifications and auxiliary aids and services.
- Notify persons with limited English proficiency (LEP) of their right to free language assistance services.



United States Department of Agriculture

# Nondiscrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or

**2.fax:**

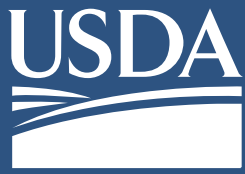
(833) 256-1665 or (202) 690-7442; or

**3.email:**

[Program.Intake@usda.gov](mailto:Program.Intake@usda.gov)

This institution is an equal opportunity provider.

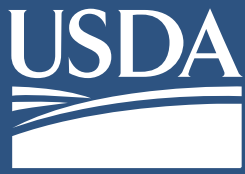




## **Nondiscrimination Statement - Uses**

**At a minimum, the full Nondiscrimination Statement must be on:**

- Application form(s)
- Notification of eligibility or ineligibility
- Notification of adverse action
- Program (Home) webpage (or a link to it)
- Public information, including program literature



# Nondiscrimination Statement

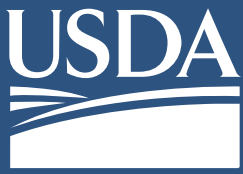
## USDA Nondiscrimination Statement

### 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

- **Translations are available on the FNS Civil Rights web page**
- <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>



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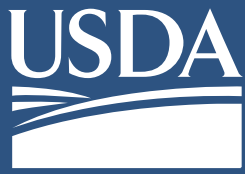
# "And Justice For All" Poster

Display the poster in a prominent location for all to view

Required version for TEFAP

AD-475A May 2022



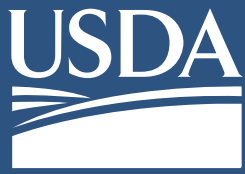


## Race and Ethnicity Data Collection

TEFAP and USDA Foods are exempt from data collection per FNS Instruction 113-1, Appendix C, Section D *DATA COLLECTION AND REPORTING*

“State agencies and local agencies or other subrecipients that operate FDPIR and CSFP must collect and maintain racial or ethnic data as specified below. The other commodity programs listed under this Appendix are exempt from this requirement.”

Otherwise.....

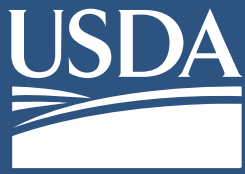


## Race & Ethnicity Data Collection

“The State agency must establish a system for collecting and maintaining racial or ethnic participation data. Recording the racial or ethnic identification of applicants and participants may include the utilization of self-identification where a written application is required. Other methods of recording such data may include card files, rosters, logbooks, or any written record used by local agencies or other subrecipients.”

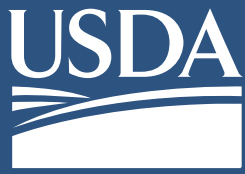
(FNS Instruction 113-1, Appendix C)

Use Form FNS-191, Racial or Ethnic Group Participation – Commodity Supplemental Food Program, to record and submits to FNS racial or ethnic participation data for CSFP households.



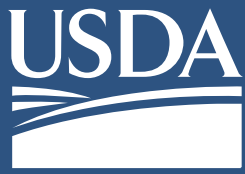
## **Race & Ethnicity Data Collection - continued**

- 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.



## Race/Ethnicity Data Collection

- If an applicant/parent does not consent to the self-identification method, the caseworker will, otherwise determine the applicant's race or ethnicity based on established policy and procedure and mark applicable category.
- [Children are not to be surveyed.](#)



## Race and Ethnic Categories - Two Question Format

1. Ethnicity

*Hispanic or Latino*

*Not Hispanic or Latino*

2. Race (one or more of the following)

*American Indian or Alaska Native*

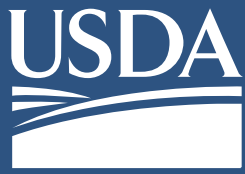
*Asian*

*Black or African American*

*Native Hawaiian or Other Pacific Islander*

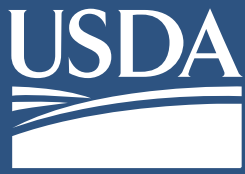
*White*





## Complaints of Discrimination

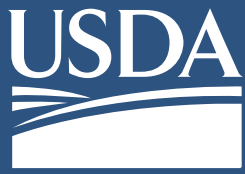
- State agencies are required to inform participants of the option to file a complaint with the USDA.
- Applicants and participants must file within 180 days of the alleged act of discrimination.
- Confidentiality is extremely important and must be maintained.
- Develop State agency complaint forms is optional.
- Maintain Civil Rights complaints in a log separate from other program complaints.



# Complaints of Discrimination – continued

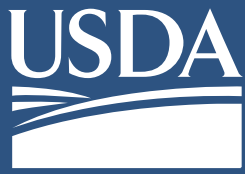
## Complaints should include:

- 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



# Processing Complaints of Discrimination

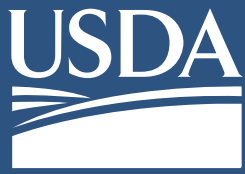
- Accept and forward all civil rights complaints to the FNS Civil Rights Division (CRD) or to the Office of the Assistance Secretary for Civil Rights in accordance with **FNS Instruction 113-1** and the **FNS State agency Complaints Processing MOU**, if in place.
- Accept written, verbal or anonymous.
- **Forward complaints based on race, color, national origin, sex (including gender identity and sexual orientation), and disability to CRD within five (5) calendar days of receipt.**
- **Forward complaints based on age (or a combination of age and other bases to CRD within five (5) business days of receipt.**



# Complaints of Discrimination - Forms

## USDA complaint form

- English version:
  - [U.S. Department of Agriculture USDA Program Discrimination Complaint Form](#)
- Spanish version:
  - [Departamento de Agricultura de los EE. UU. \(USDA\) Formulario de Denuncia por Discriminación del Programa del USDA](#)
- Other translations:
  - [Food and Nutrition Service Translated Forms](#)



## 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.
- FNS staff and State agencies review local agencies.
- Local agencies review their subrecipients.

Significant findings must be provided in writing to the reviewed entity and to FNS.

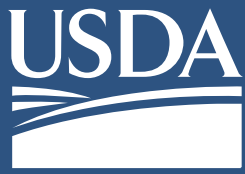
## Compliance Review Types

There are three types of Compliance Reviews:

- Pre-Award
- Routine (Post-Award)
- Special compliance reviews

## Pre-Award Reviews

- The State agency usually conducts these as desk reviews of information provided by potential recipients in their applications to operate a FNS program.
- No Federal funds are provided to State agencies or other potential recipients until a Pre-Award Compliance Review determines the applicant complies with applicable Federal Civil Rights statutes and regulations.

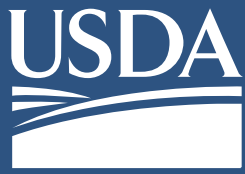


## Routine/Post-Award Reviews

FNS and State agencies must conduct routine compliance reviews as identified by FNS Instruction 113-1 and program-specific regulations and policies.

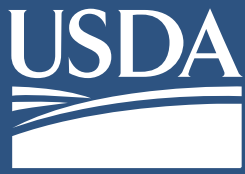
- ✓ Assess all Civil Rights compliance areas.
- ✓ Sample post-award review questions:
  - Do printed materials and websites contain the nondiscrimination statement?
  - How are applicants and participants advised of their right to file a Civil Rights complaint of discrimination?
  - Are reasonable modifications and auxiliary aids and services appropriately made for people with disabilities?
  - Are reasonable steps taken to ensure meaningful access for persons with limited English proficiency.





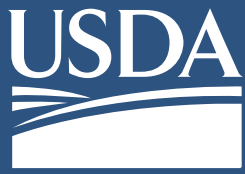
## Special Reviews

- Conducted by USDA's Office of the Assistant Secretary for Civil Rights independently or in conjunction with FNS program or Civil Rights staff
- Scheduled or unscheduled in follow-up to previous findings of noncompliance or to investigate reports of noncompliance by other agencies, media, or grassroots organizations
- May occur to resolve a specific incident or policy
- May occur as a result of an entity's history of statistical underrepresentation of group(s)
- May occur if a pattern of complaints of discrimination exists



## 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 subrecipient agency
- Steps must be taken immediately to obtain compliance.
- A finding's effective date is the date of notice to the reviewed entity.

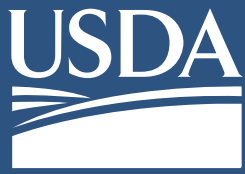


## Voluntary Resolution Agreement

- A written agreement that the reviewed entity voluntarily enters with FNS to ensure compliance with Federal Civil Rights laws
- Between two or more parties (e.g., FNS CRD, State agency, subrecipient, complainant, etc.)
- To closeout a Civil Rights Review in lieu of issuing a written Compliance Review report with findings

## Civil Rights Training

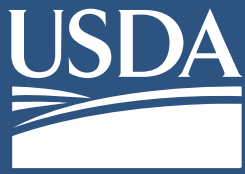
- State agencies are responsible for training local agencies on an **annual basis**.
  - ✓ Includes “frontline staff” and those who supervise frontline staff
- New employees must receive Civil Rights training before participating in Program activities.
- Volunteers (if any) must also receive training appropriate for their roles and responsibilities.



## Civil Rights Training

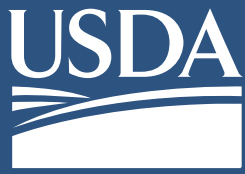
All staff should receive training on all aspects of Civil Rights compliance, including:

- Assurances
- Public notification
- Complaints of discrimination
- Civil Rights training
- Racial and ethnic data collection
- Limited English Proficiency (LEP)
- Disability compliance
- Compliance reviews and resolution of noncompliance
- **Conflict Resolution**
- **Customer Service**



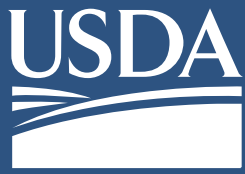
## Limited English Proficiency (LEP) and Program Access

- 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 must 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.



## What is Meaningful Access?

- Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.
- For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals. (See [\*DOJ Language Access Plan\*](#).)

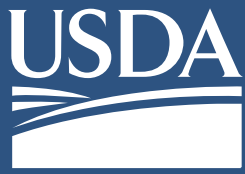


## Limited English Proficiency (LEP) and Program Access

### Factors included in assuring “meaningful” access

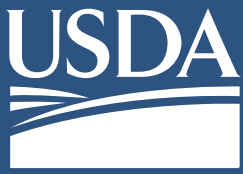
- The number or proportion of LEP people eligible to be served or likely to be encountered by the program
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service provided by the program to people’s lives
- The resources available to the recipient and costs





## LEP and Program Access

- Conduct assessments to determine language profile for their State, considering regional differences and updating as appropriate.
- Translate vital documents and online information.
- Post multilingual notices of free interpretation services.
- Utilize qualified and competent interpreters and translators.
- Train frontline staff regarding how to provide LEP populations with meaningful access.



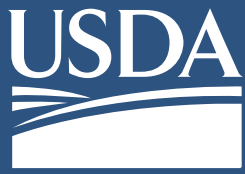
# LEP and Program Access - continued

## Language services

- Applicants and participants cannot be asked to bring their own interpreters
- Children should **not** be used as interpreters

## Examples of language services

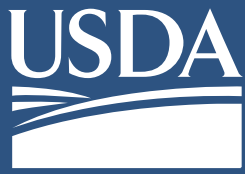
- Bilingual staff
- Qualified and competent telephonic interpreters
- Qualified and competent interpreters
- Qualified and competent translators
- Community organizations with qualified and competent volunteer interpreters



# LEP Population and Data Sources

## Population data sources:

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

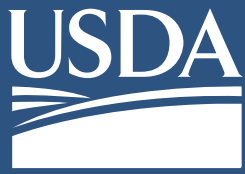


## Disability Access

What is the definition of disability?

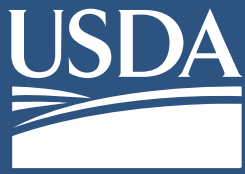
- A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- Major life activity means functions such as caring for self, performing manual tasks, walking, seeing, hearing, 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)



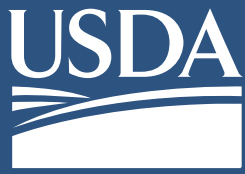
## **Disability and Program Access**

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



## Disability and Program Access - continued

- As programs and offices modernize, it is imperative that 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.



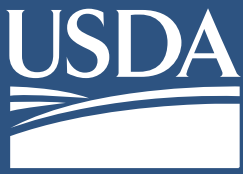
## More on Disability and Program Access

- Title II requires public entities to administer services, programs, and activities in the “most integrated setting” appropriate to the needs of qualified individuals with disabilities.
- The most integrated setting enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.

# Questions







## Contact Information

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