

# **CIVIL RIGHTS**

in

## **USDA Child Nutrition and Food Distribution Programs**

Kirsten Baesler, State Superintendent

# Civil Rights Laws

- ✓ Title VI of the Civil Rights Act of 1964
- ✓ Title IX of the Education Amendments of 1972
- ✓ Section 504 of the Rehabilitation Act of 1973
  - ✓ Age Discrimination Act of 1975
  - ✓ ADA Amendments Act of 2008
- ✓ Federal Nutrition Services 113-1 and its Appendices



# What are Civil Rights?

“The nonpolitical rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13<sup>th</sup> & 14<sup>th</sup> Amendments to the US Constitution and acts of Congress.”

The terms “civil rights” and “equal employment opportunity (EEO)” are **not** interchangeable

# Civil Rights Concepts

## Stereotyping

- Preconceived beliefs or over-simplified generalizations about a particular group

## Prejudice

- A set of rigid and unfavorable attitudes toward a particular group that is formed without considering facts

## Discrimination

- The practice of treating people differently because of how we have grouped them in our minds according to our prejudices

# What is Discrimination?

The act of distinguishing one person or group of people from others, either intentionally, by neglect, or by the effect of actions, or lack of actions based on.....

- Delayed benefits or services.
- Denied benefits or services.
- Treated Differently than others to their disadvantage.
- Given Disparate Treatment.



# Six Protected Classes

- Race
- Color
- National Origin
- Age
- Gender
- Disability



# 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 must be incorporated in all agreements between state and local agencies.

# Assurances, continued

- Sub-recipient agreements must also include a Civil Rights assurance of nondiscrimination.
  - Example: Many SFAs contract with Food Service Management Companies (FSMC) to provide food service to students. SFAs are to be responsible for ensuring that their FSMCs are in compliance with CR requirements.
- These assurances are binding on the program applicant and its successors, transferees, and assignees, as long as they receive assistance or retain possession of any assistance from USDA.



# Civil Rights Training

Training is required so that individuals involved in all levels of administration of programs that receive Federal financial assistance understand Federal laws, regulations, instructions, policies and other guidance.

# Civil Rights Training Requirements

- State agencies are responsible for training local agencies/sub-recipients on an annual basis.
- Local agencies are responsible for training their staff and sub-recipients 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.
- [Training materials](#) available on the CNFD website.
- Document the training!

# Civil Rights Training

All staff who work with Child Nutrition Programs must receive training on all aspects of civil rights compliance annually.

Specific Subject matter:

- 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.

Retain training records, including the agenda and sign in sheet of the people who received civil rights training.

# Racial and Ethnic Data Collection and Reporting

- Data collection is mandatory
- Recipients of federal financial assistance must maintain a system to collect racial and ethnic data in accordance with FNS policy
- Data is used to:
  - Determine how effectively FNS programs are reaching potentially eligible people
  - Identify areas where additional outreach is needed
  - Assist in the selection of locations for compliance reviews
  - Complete reports as required
- Data must be maintained for 3 years
  - Must be submitted to FNS as requested

# Racial and Ethnic Data Collection and Reporting

- Data must be collected using a two-part question
  - **1. Ethnicity**
    - Hispanic or Latino
    - Not Hispanic or Latino
  - **2. Race (*may select more than one*)**
    - American Indian or Alaskan Native
    - Asian
    - Black or African American
    - Native Hawaiian or Other Pacific Islander
    - White

# Collection and Use of Data

System for collecting actual racial and ethnic data must be established and maintained for all programs;

- Data is used to determine how effectively your program is reaching potentially eligible children and where outreach may be needed.
- Data must be collected on an annual basis;
- Data is typically collected at the time of student enrollment or by other student data systems.
- Program applicant self-identifies race and ethnicity on Free and Reduced Application, and if not selected, visual identification is determined.
- Records must be kept for 3 yrs., plus current year.
- Records must be kept in a secure manner.

# Racial/Ethnic Data Form

- On CNFD Website at [https://www.nd.gov/dpi/sites/www/files/documents/Child Nutrition/SNP/Collection%20of%20racial%20ethnic%20data.pdf](https://www.nd.gov/dpi/sites/www/files/documents/Child%20Nutrition/SNP/Collection%20of%20racial%20ethnic%20data.pdf)
- Complete annually and keep on file with other program records
- Reviewed as part of the Administrative Review process

# Public Notification

- All FNS assistance programs (i.e. CNP) must include a public notification system.
- Elements of public notification
  - Program availability
  - Complaint information
  - Nondiscrimination statement



# 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 Web site. At a minimum the nondiscrimination statement or a link to it must be included on the home page of the program information.)

# Effective Public Notification System

- Make program information available to the public upon request.
- Prominently display the “And Justice for All” poster.
- Inform potentially eligible persons, applicants, participants and 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.



# Information Included

- Eligibility,
- Benefits & Services (i.e. free or reduced-price school meals and snacks),
- Program availability (location of local facilities or service delivery points, hours of service),
- Applicant rights and responsibilities,
- Procedures for filing a complaint,
- Non-discrimination policies,
- Any programmatic changes (i.e. changing location of a meal site).



In accordance with Federal 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, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) 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. Additionally, program information is available in languages other than English.

To file a complaint alleging 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), or 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:

**mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410

**fax:**  
(202) 690-7442; or

**email:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov).  
This institution is an equal opportunity provider.

Conforme a las leyes federales y a los derechos civiles, reglamentos y políticas del Departamento de Agricultura, USDA, se prohíbe a esta institución discriminar por motivo de raza, color, nacionalidad, sexo, edad, discapacidad y represión o tomar represalias por actividades realizadas en el pasado relacionadas con los derechos civiles. (No todos los principios de prohibición se aplican a todos los programas).

Las personas discapacitadas que requieran medios alternos para que se les comunique la información de un programa (por ejemplo, braille, letra agrandada, grabación de audio, lenguaje de señas estadounidense, etc.) deberán comunicarse con la agencia estatal o local responsable de administrar el programa o el TARGET Center del USDA al (202) 720-2600 (voz y TTY) o comunicarse con el USDA a través del Servicio Federal de Transmisión de Información al (800) 877-8339. La información del programa también está disponible en otros idiomas además del inglés.

Para presentar una queja por alegada discriminación, complete el formulario de quejas por discriminación del programa del USDA, AD-3027, que podrá encontrar en línea en [http://www.ascr.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6.8.12\\_0.pdf](http://www.ascr.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6.8.12_0.pdf) o en cualquier oficina del USDA o escriba una carta dirigida al USDA que incluya toda la información solicitada en el formulario. Para solicitar una copia del formulario de presentación de quejas, comuníquese al (866) 632-9992. Envíe su formulario o carta completos al USDA por

**correo:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410

**fax:**  
(202) 690-7442; o

**correo electrónico:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov).  
Esta institución ofrece igualdad de oportunidades.

Good nutrition today means a stronger tomorrow!

## Building for the Future with CACFP

This day care  
receives support  
from the Child and  
Adult Care Food  
Program to serve  
healthy meals to your children.



Meals served here must meet USDA's  
nutrition standards.

Questions? Concerns? Call USDA toll free:  
1-866-USDACND (1-866-873-2263)

Learn more about CACFP at USDA's website:

<https://www.fns.usda.gov/>

USDA is an equal opportunity provider, employer and lender

United States Department of Agriculture  
Food and Nutrition Service FNS-317

June 2000  
Revised September 2019

North Dakota Women, Infants, and Children Program (WIC)

### What is WIC?

WIC is a nutrition program that gives you:  
> Nutrition information, counseling, and support  
> Breastfeeding information and support  
> Nutritious foods  
> Health screenings  
> Referrals to other services

Where Can I Get WIC  
WIC serves every county in North Dakota. Call your local WIC clinic or call 1-800-472-2286



To be Eligible for WIC,

- You must be:  
--A pregnant woman;  
--A breastfeeding woman (up to one year after giving birth);  
--A new mother (up to six months after giving birth); or  
--A parent, guardian, or caretaker who has an infant or child younger than 5 years of age.
- You must have a nutritional health risk. The WIC staff will be able to find a risk by checking your height, weight, and iron level, and having you answer some health and diet questions.
- Your annual household income must be within WIC Guidelines (see below) which are based on gross income unless you are self-employed. NOTE: You may have a job and still meet these guidelines.

### North Dakota WIC Income Eligibility Guidelines 2021-2022

#### 185% Poverty Level

Household Size	Annual	Monthly	Weekly
1	23,828	1,986	459
2	32,227	2,686	620
3	40,626	3,386	782
4	49,025	4,086	943
5	57,424	4,786	1,105
6	65,823	5,486	1,266
For each additional household member add:	8,399	700	162

WIC is an equal opportunity program. USDA policy does not permit discrimination because of race, color, national origin, sex, handicap or age. Any person who believes he/she has been discriminated against in any USDA related activity should write immediately to: Secretary of Agriculture or Director, Office of Advocacy and Enterprise, USDA, Washington, D. C., 20250

ND Department of Health  
Division of Nutrition and Physical Activity  
600 E. Boulevard Ave.  
Bismarck, ND 58505-0440  
Toll free: 800-472-2286

USDA/CACFP/IFP/ND/00007-WIC Poster 2021-22

Printed and distributed by ND Dept. of Public Instruction



# 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.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, 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](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.



# Non-Discrimination Statement for Small Materials

If the material is too small to permit the full statement to be included, the material will, at a minimum, include the following statement in print size no smaller than the text:

***“This institution is an equal opportunity provider.”***

# Non-Discrimination Statement

- Must be on the main page of the district School Nutrition Programs webpage
- Must be included in information materials.
- Convey the message of equal opportunity in all photographic and other graphics used to provide program or program-related information.
- Not required to be imprinted on small items where deemed impractical (cups, buttons, magnets, pens, etc.)

<input type="radio"/> <b>Enrollment Forms</b>	<input type="radio"/> <b>Menus</b>	<input type="radio"/> <b>Employee Handbooks</b>	<input type="radio"/> <b>Newsletters</b>
<input type="radio"/> <b>Brochures</b>	<input type="radio"/> <b>Parent Handbooks</b>	<input type="radio"/> <b>Print or Broadcast Ads</b>	<input type="radio"/> <b>Flyers</b>
<input type="radio"/> <b>Websites</b>	<input type="radio"/> <b>Public Release</b>	<input type="radio"/> <b>Computer-based applications</b>	<input type="radio"/> <b>Bulletins</b>

# Complaint Procedures

May be written or verbal – anonymous – related to any area of

## Nutrition Program

- All complaints alleging discrimination based on race, color, national origin, age, sex or disability.
- For all complaints gather, name, address, telephone number, or other means of contacting the complainant.
- The specific location and name of the location delivering the service or benefit.
- The nature of the incident or action that led to the complaint.
- The basis on which the complainant believed discrimination exists.
- Names, telephone numbers, titles, of persons who may have knowledge of the alleged discriminatory action.
- Include dates in which the actions occurred, or the duration of actions.



# Complaint Procedures, continued

## Filing a complaint:

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).

# Civil Rights Coordinator

The program sponsor must designate an employee who is responsible for USDA Civil Rights Issues.

- This individual must be designated to receive complaints.
- This individual should be identified to all employees.
- This designated person should know who to contact if Civil Rights issues arise.

# Compliance Reviews

- Examine the activities of State agencies, local agencies, and subrecipients to determine Civil Rights compliance
- FNS staff and State agencies review local agencies and subrecipients.
- Significant findings must be provided in writing to the reviewed entity.

# Compliance Review Techniques

- Compliance reviews are conducted on an ongoing basis for all USDA nutrition programs. Reviewers will be looking for:
  - “And Justice for All” poster in public view,
  - Civil Rights training is documented, for all employees/volunteers,
  - Correct nondiscrimination statement is used on all material.
- Promptly notify NDDPI of any complaint alleging discrimination.
- FNS regulations apply to all private and public schools participating in NSLP.

[Civil Rights Training](#)

# 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 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?
  - Are appropriate language services provided?

# Resolution of Noncompliance

- If noncompliance is indicated, a corrective action plan must be implemented immediately and must achieve compliance within 60 days.
- **Corrective Action Plan:** a plan describing the agency's actions to be taken to resolve noncompliance with civil rights requirements.



# Examples of Noncompliance

Deny an individual or household the opportunity to apply for program benefits or services.

Selecting members for planning and advisory bodies that exclude membership based on race, color, national origin, age, sex, or disability.

Selecting program sites or facilities in a way that denies access to benefits based on protected class.



# Disability Definition

- A person with a physical or mental impairment that substantially limits one or more major life activities.
- A person who has a record of such an impairment.
- A person who is regarded as having such an impairment.





# ADA Amendments Act of 2008

- EXPANDED and CLARIFIED the definition of Disability.
- DID NOT change the expectation to provide a Reasonable Modification.
- DID make very clear that the emphasis must be on providing the reasonable modification, and the disabled person does not carry a high burden of proving he or she has a disability.

# Reasonable Accommodation

- Modification provided should be related to the disability or limitations caused by the disability.
- Modification does not have to be the modification requested.
- Modification must (generally) be free of charge.
- Modifications should be implemented even when the person requesting modification believes more should be done.

# Reasonable Accommodation, continued

Meal modifications must be made when a medical authority prescribes a modification to accommodate a student's disability.

A "Medical Statement to Request Meal Modifications" is available on the NDDPI website. [Medical Form](#)

The Request must contain three essential components:

- The food to be avoided (allergen)
- Brief explanation of how exposure to the food affects the participant
- Recommended substitute

Modifications for non-disabled participants are permitted, but not required.

# Requirements of Reasonable Accommodation of Persons with Disabilities

- Consider costs/resources and ability of the participant(s).
- “Stereotypes” regarding certain conditions or individuals can never drive decisions. Decisions must be based on facts.
- “Lifestyle” choices (e.g. vegetarian) are not considered disabilities and need not be accommodated unless related to an underlying disability.

# Meal Accommodations

- Meal accommodations must be made for all meal service types:
  - Served in classroom
  - Grab n Go
  - Meals sent home for students that are distance learning.

# Disability Discrimination

- Accessibility of State and local agency websites, and online application systems to persons with visual impairments and other disabilities.
- Physical Program access to persons in wheelchairs and with mobility disabilities.
- Accessibility through Braille, large print and audio tape and other alternative formats.
- Accessibility to American Sign Language (ASL) and interpreters.

# 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: Assuring Meaningful Access Part 1

- 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: Assuring Meaningful Access Part 2

- 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.
- Interpretation services are also required.
- Staff training regarding how to provide LEP populations with meaningful access is paramount (frontline staff).

# LEP: Assuring Meaningful Access Part 3

- 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
  - Telephone interpreter lines
  - Oral interpretation services
  - Written language services
  - Community organizations and volunteers

# Limited English Proficiency (LEP) and Program Access

- Population data sources
  - 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/>

# Conflict Resolution

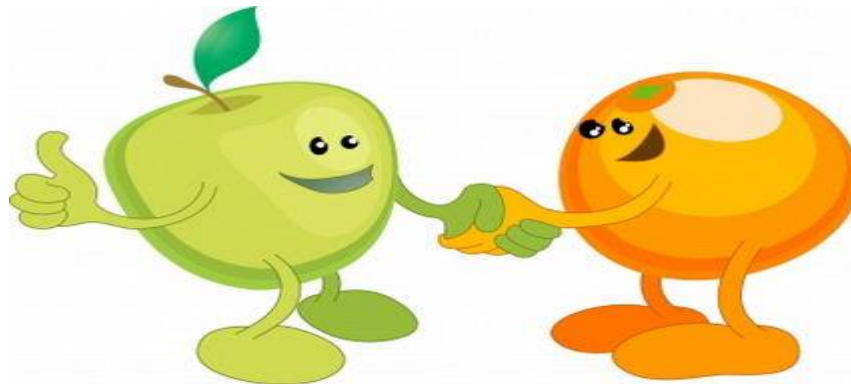
- **IDENTIFY THE PROBLEM.** Identify the problem based on the information the customer gives you.
- **DETERMINE A SOLUTION.** Depending on the specifics of the conversation and your knowledge of your organization, the solution may involve calling the customer again.
- **GAIN APPROVAL FROM THE CUSTOMER.** If the customer does not agree to the proposed solution, it will resolve nothing!
- **MAKE AN AGREEMENT.** You and the customer should determine what is to be done, when it is to be done, and by whom. If it is not possible, suggest an alternative.
- **FOLLOW UP.** Personally make sure that the customer has been satisfied; and provide feedback.

# Conflict Resolution

Skills can help staff provide good customer service and avoid potential civil rights complaints.

## 5 Goals:

- Avoid the desire to blame.
- Improve the situation.
- Communicate your feelings directly.
- Improve relationships and increase communication.
- Avoid repeating the situation.



# Customer Service

## Treat all participants with dignity and respect

- Respond to questions in a non-threatening manner.
- Effective communication is a key to good customer service.
- Use reflective listening.
- Develop good listening skills.



**Give respect Get respect**

# Summary

Please check this list of Civil Rights requirements for all USDA nutrition programs:

- Display the “**And Justice for All**” poster prominently at all sites.
- Include the **nondiscrimination statement** on all forms, signage and other communications.
- Through the application and/or enrollment process, **collect racial and ethnic data**.
- Accommodate disabilities. **Provide equal access** to programs, program materials and meals to all.
- **Train staff on** Civil Rights annually. Remember to document the training.
- Show **respect** and **dignity** to all.





[dpicnfd@nd.gov](mailto:dpicnfd@nd.gov)

1-888-338-3663