

Civil Rights Requirements



Revised: 8/2014

GOALS OF CIVIL RIGHTS

- ♦ Equal treatment for all applicants and beneficiaries
- ♦ Knowledge of rights and responsibilities
- ♦ Elimination of illegal barriers that prevent or deter people from receiving benefits
- ♦ Dignity and respect for all

2

What is Discrimination?

The act of distinguishing one person or group of persons from other, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes.

What Is a Protected Class?

Any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order.

3

Discrimination = Four D's

...an individual or group is:

- **D**enied benefits or services that others receive
- **D**elayed receiving benefits or services that others receive
- Treated **D**ifferently than others to their disadvantage
- Given **D**isparate treatment something which does not seem discriminatory, but has a discriminatory impact in practice

4

Examples of Discrimination

- ♦ Refuse a participant's enrollment based on disability
- ♦ Failure to provide reasonable accommodations to disabled individuals
- ♦ Serving meals at a time, place, or manner that is discriminatory
- ♦ Selectively distributing applications and income forms
- ♦ Failure to provide the same eligibility criteria to all participants

5

Components of Civil Rights Compliance

- ♦ Public Notification System
- ♦ Outreach and Education
- ♦ Data Collection
- ♦ Reasonable Accommodations
- ♦ Civil Rights Complaint Procedures
- ♦ Technical Assistance and Training
- ♦ Customer Service
- ♦ Conflict Resolution

6

Equal Access

- All children who attend must be provided equal access to the benefits of the SMP.
- To withhold the program from any eligible age group is age discrimination.

7

Public Notification

8

Public Notification

Must include information on:

- Eligibility
- Benefits & Services
 - i.e. assistance with milk purchases
- Program availability
- Applicant rights and responsibilities
- Procedures for filing a complaint
- Non-discrimination policies

Methods of Public Notification

- **Public News Media Release (required)**
 - Inform the general public that your agency sponsors the SMP and that milk is provided at no separate charge.
- **Post “And Justice for All” Poster (required)**
 - Includes the USDA’s nondiscrimination statement and lists the USDA contact information for filing a complaint of discrimination.
- **Other methods of public notification (optional):**
 - Bulletins
 - Letters/Leaflets/Brochures
 - Internet/Computer-based Applications

Public Notification System

◆ News Media Release

- ◆ **Annually** submit to local news media outlet
 - (i.e.- newspaper)
- ◆ Keep a copy on file stating where and when submitted



11

“And Justice for All” Poster

- All agencies participating in Child Nutrition Programs must display the USDA’s non-discrimination poster in a prominent area where participants and potential participants have access
 - Examples: cafeteria/food service area, office, parent bulletin board
- Must be posted at every site
- Must be 11” x 17” format

DPI provides posters to agencies free of charge. To order posters, contact your assigned Consultant.

Staff Directory/Map: <http://dpi.wi.gov/community-nutrition/cacfp/map>



12

Outreach and Education



13

Outreach and Education

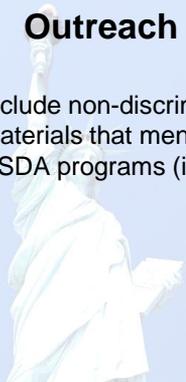
- ◆ You want to reach as many potential children as possible.
- ◆ You want to ensure program access.
- ◆ You need to pay attention to under-represented groups.
- ◆ Include the required nondiscrimination statement on all appropriate FNS and agency publications, web sites, posters, and informational materials.
- ◆ When using graphics, reflect diversity and inclusion.



14

Outreach and Education

Include non-discrimination statement on all materials that mention or imply SMP and/or USDA programs (including websites)



15

Required Non-Discrimination Statement Language – 12/2015 Revision

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, audiotape, 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 \(AD-3027\)](http://www.ecst.usda.gov/complaint_form_cust.html) found online at: http://www.ecst.usda.gov/complaint_form_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

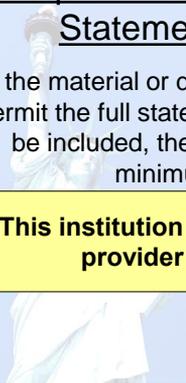
This institution is an equal opportunity provider.

16

Required Non-Discrimination Statement Language

If the material or document is too small to permit the full statement (previous slide) to be included, the material **MUST**, at a minimum, include:

“This institution is an equal opportunity provider and employer.”



17

Ethnic and Racial Data Collection



18

Why do I have to collect ethnic and racial data?

Ethnic and racial data is used to determine how effectively your program is reaching potentially eligible children and where outreach may be needed.

19

Collecting and Recording Participation Data

- Establish a system to collect ethnic and racial data on an annual basis
- Program applicants may not be required to furnish ethnicity and race
- Data collectors may not second guess, change, or challenge a self-declaration of ethnicity and race made by a participant unless such declarations are blatantly false

20

Data Collecting and Reporting

Collect ethnic data first, then racial data

1. **Ethnicity categories:**
 - Hispanic or Latino
 - Non-Hispanic or Non-Latino
2. **Racial categories (instructions should specify “mark one or more”)**
 - American Indian or Alaskan Native
 - Asian
 - Black or African American
 - Native Hawaiian or other Pacific Islander
 - White

21

Racial and Ethnic Data Collection

- You may use one of the following two methods to determine ethnicity and race:
 - Visual identification by a center official
 - Personal knowledge, records or other documentation your agency possesses that identifies household ethnic and racial data.
- Form available at <http://dpi.wi.gov/community-nutrition/ns-smp/resources>

**COMPLETE AND RETURN ON FILE
DO NOT BRING TO MEETINGS/WORKSHOPS**

ETHNIC and RACIAL DATA FORM

Instructions: Count each participant ETHNIC, once by ETHNICITY, then by RACE. A participant can be counted within more than one RACE category. Complete one form per site on the back of this form.

Agency Name: _____ Site Name (if different): _____	
Name of Agency Representative: _____	Site Address: _____
ETHNIC CATEGORIES –	
Select either Hispanic/Latino OR	
Not Hispanic/Latino for each enrolled participant	
Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”	Number of Participants
Not Hispanic or Latino	
RACIAL CATEGORIES –	
Select at least one category for each enrolled participant:	
American Indian or Alaskan Native: A person having ancestry from all of the original peoples of North and South America (including Central America) and who maintains that affiliation or community attachment.	Number of Participants
Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippines, Thailand, and Vietnam.	
Black or African American: A person having origins in any of the Black racial groups of Africa. Terms such as “African” or “African American” can be used in addition to “Black or African American.”	
Native Hawaiian or Other Pacific Islander: A person having ancestry from the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	
White: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.	
Agency Representative Signature: _____	Date: _____

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22

Data Management

- **Collection systems must ensure that data collected/retained are:**
 - Collected and retained by each program site
 - Kept secure and confidential
 - Submitted, if requested, to FNS Regional or Headquarters Offices
 - Kept on file for 3 years plus the current program year
 - Identify all sources of information used

23

Conflict Resolution



24

Conflict Resolution

- The USDA recommends using an **Alternative Dispute Resolution (ADR) program**

ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation.

Visit <http://www.fas.usda.gov/about-fas/civil-rights/alternative-dispute-resolution-adr-program> for more information.

25

Reasonable Accommodation of Persons with Disabilities

26

Providing Milk Substitutions

- USDA regulations only require substitutions or modifications in SMP milk choices for children whose disabilities restrict their diets based on a licensed physician's assessment

Example: food allergies causing life-threatening anaphylactic reactions

- Disabilities must be documented by a physician's statement

Physician statement must: state the name of the child's disability, identify how it limits one of the major life activities, specify foods the child cannot have and the foods to be substituted.

- Generally, children with food allergies or intolerances do not have a disability. The agency may, but is not required to, make milk substitutions under these circumstances.

Example: lactose intolerance, sensitivity to food additives

27

Complaint Procedures



28

Handling Civil Rights Complaints

- Agencies are required to develop and implement a written procedure to handle any discrimination complaint that may be received

29

Right to File a Complaint

Any person who believes he or she or someone he/she knows has been discriminated against based on Federal protected classes (i.e. National origin, race, etc.) has a right to file a complaint within **180 days** of the alleged discriminatory action.

- Complainants should complete the *USDA Program Discrimination Complaint Form*:

http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf

- Complainants may contact either of the following offices to register a complaint:

USDA- Office of the Assistant Secretary for Civil Rights: Refer to slide 14 for the address, fax number, and email address.

Wisconsin DPI: Director, Community Nutrition Programs, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707-7841, (608) 267-9129

30

Handling Civil Rights Complaints

- Complaints can be written or verbal
- Anonymous complaints should be handled as any other complaint
- All verbal or written complaints must be forwarded to the WI DPI or Civil Rights Division of USDA Food and Nutrition Service *within three days* of receiving a complaint
- Agencies must give complainants a *Civil Rights Complaint Form* to complete (Handout)
- Document all potential complaints in a *Civil Rights Complaint Log*
- Have a central location where the *Civil Rights Complaint Forms* and *Civil Rights Complaint Log* will be kept

31

The following information should be included in a Civil Rights Complaint

- ♦ Name, address, phone number of complainant, if provided (not required)
- ♦ Specific name and location of entity delivering the benefit or service
- ♦ The nature of the incident, action, or method of administration that led the complainant to feel discriminated against

32

The following information should be included in a Civil Rights Complaint Continued...

- ♦ The basis on which the complainant feels discrimination exists (race, color, national origin, sex, age, or disability)
- ♦ 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, or if continuing, the duration of such actions

33

CIVIL RIGHTS TRAINING

Civil Rights Training for Agency Staff

- ♦ All staff who work with the SMP must receive training on all aspects of civil rights compliance annually.
- ♦ Topics:
 - What is Discrimination?
 - Collecting/recording ethnic and racial data
 - Where to display posters
 - What is a Civil Rights complaint
 - How to handle a Civil Rights complaint
- ♦ Retain training records of the people who received civil rights training.

35

Customer Service



36

Customer Service

- All participants must be allowed equal opportunities to participate in Child Nutrition programs regardless of race, color, national origin, sex, age, or disability.
- All participants must be treated in the same manner (i.e. seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval processes).

37

Understanding Differences: Respectful Language

Put the person first

- ❖ Example: USE "person with a disability", NOT "disabled person"

Use culturally sensitive language

- ❖ Example: USE "Asian", NOT "Oriental"

Use inclusive/respectful terms

- ❖ Example: USE "chair", NOT "chairman"

The Side Road – Business Communication:

http://www.sideroad.com/Business_Communication/politically-correct-language.html

38

Ask yourself each time you interact with participants...

- How would I want to be addressed?
- Am I treating this person in the same manner I treat others?
- Have I informed this person exactly what information I need to make a determination on the application?
- Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions?
- Have I provided this person with needed information to make necessary decisions?

39



Civil Rights Summary

40

Summary: Civil Rights "Must Do List"

- Provide the SMP in a nondiscriminatory manner
- Must offer milk to all children at the institution and milk substitutions to participants with disabilities
- Prominently display the "And Justice for All" poster

41

Summary: Civil Rights "Must Do List"

- Non-discrimination statement must be on all printed materials available to the public which mention USDA and/or SMP, including websites
- Annually complete the Ethnic and Racial Data Collection Form
- Annually submit the News Media Release to a local news media outlet

42

Summary: Civil Rights “Must Do List”

- ❑ Train staff annually on Civil Rights and complete a documentation of training form
- ❑ Develop & fully implement your Civil Rights Complaint Procedure
- ❑ Make available to all staff: Civil Rights complaint forms, Civil Rights Log and Civil Rights complaint procedure
- ❑ Refer all Civil Rights complaints to DPI or USDA

43

Questions?



44

Thank you!

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45