



# USDA Civil Rights and Requirements

Nebraska Department of Education  
Nutrition Services

Revised 5/2023





# 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







# Topics Discussed

- Legislation/Authority
- Assurances
- Public Notification
- Data Collection
- Language Assistance
- Reasonable Accommodations for Persons with Disabilities
- Complaint Procedure and Conflict Resolution
- Civil Rights Reviews and Resolution of Noncompliance
- Training
- Customer Service







# Authority

Programs receiving USDA funds must follow civil rights regulations and policy:

- Civil Rights Regulations are intended to ensure benefits of Child Nutrition Programs are made available to all eligible people in a non-discriminatory manner.
- All sponsors receiving Federal funds must implement Civil Rights requirements to be eligible for the program.







# Authority

Food and Nutrition Service (FNS) 113-1 regulations cover these programs:

- National School Lunch, Breakfast and Special Milk Programs
- Summer Food Program
- Food Distribution Program
- Child and Adult Care Food Program

<https://fns-prod.azureedge.us/sites/default/files/113-1.pdf>







# Civil Rights Legislation

## 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

## *Title IX of the Education Amendments of 1972 & 7 CFR 15a:*

- Sex

## *Section 504 of the Rehabilitation Act of 1973 & Americans with Disabilities Act of 1990 & 7 CFR 15b:*

- Disability

## *Age Discrimination Act of 1975 & 7 CFR 15c:*

- Age







# Civil Rights Legislation

## 7 CFR Part 16:

- Equal Opportunity for Religious Organizations

*USDA LEP Guidance (79 F.R. No. 299, p. 70771-70784, Nov. 28, 2014)*

## *Executive Order 13166*

- *Improving Access to Services for Persons with Limited English Proficiency*







# Civil Rights Legislation

## *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA):*

- Enforces Title VI of the Civil Rights Act of 1964 and related statutes in block grant type Programs

## *Food and Nutrition Act of 2008, as amended*

- Prohibits discrimination on the basis of race, color, sex, age, national origin, religion, political beliefs, or disability







# Civil Rights Legal Authorities

## *28 CFR Part 42:*

- *Nondiscrimination in Federally Assisted Programs*

## *USDA Departmental Regulation 4330-002 (non-discrimination regulations)*

- *Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA*

## *FNS Instruction 113-1 and Appendix B*

## *7 CFR Part 210, 215, 220, 245 (NSLP), 226 (CACFP), and 225 (SFSP)*







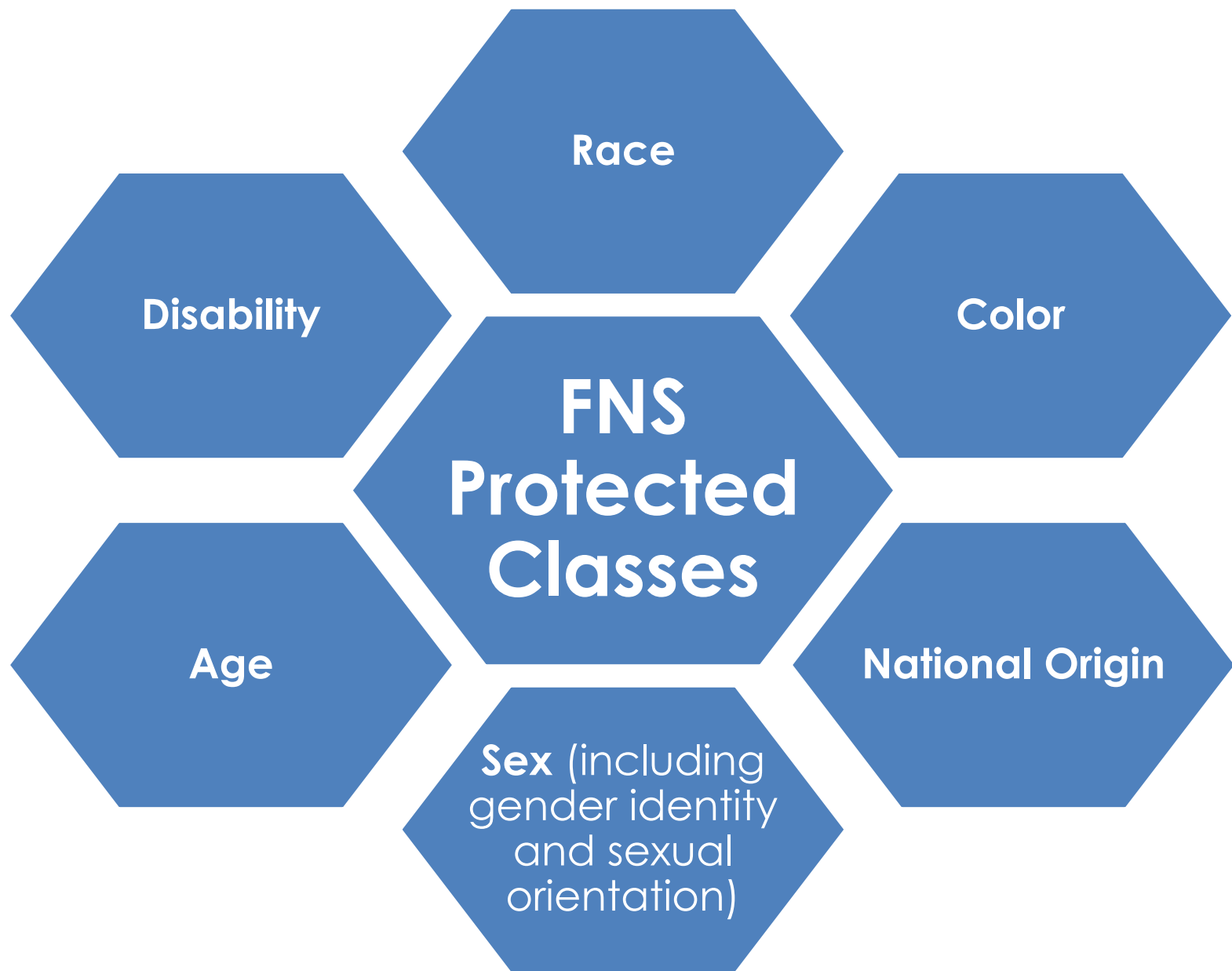
# Discrimination

Defined as:

“Different treatment which make a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of action based on a protected class.”











# Assurances

- To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the program or facility to receive financial assistance will be operated in compliance with all civil rights laws and non-discrimination regulations.
- A Civil Rights assurance statement must be incorporated in all agreements between State Agency (NDE) and their subrecipients.
  - Refer to FNS Instruction 113-1, Appendix B







# 1: Public Notification



United States Department of Agriculture



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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 [www.usda.gov/sites/default/files/documents/USDA-program-discrimination-complaint-form.pdf](https://www.usda.gov/sites/default/files/documents/USDA-program-discrimination-complaint-form.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:

**mail:**  
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1400 Independence Avenue, SW  
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Form AD-3027, USDA Program Discrimination Complaint Form (2012)

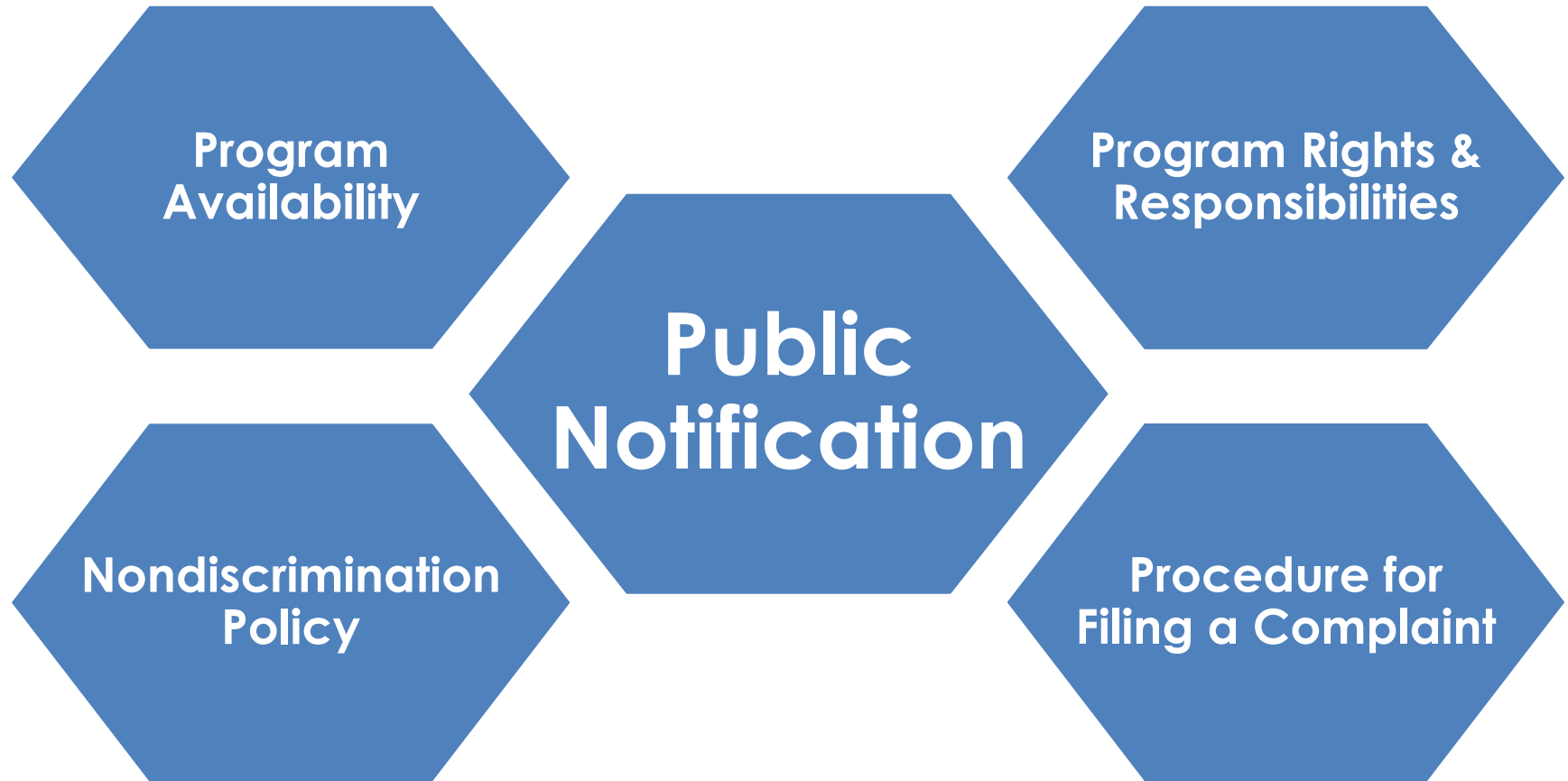
Adapted from USDA, Office of the Assistant Secretary for Civil Rights







# All FNS assistance programs must include a public notification system







# Public Notification

## Program Availability

Inform applicants, participants, and potentially eligible persons of the program and steps for participation.

## Rights & Responsibilities

Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities.

## Nondiscrimination Statement

All information materials and sources, including websites used to inform the public about FNS programs must contain a NDS.

## Complaint Procedure

At the service delivery point, applicants and participants must be advised of their right to file a complaint, how to file a complaint, and the complaint procedures.







# Elements of Public Notification

State agencies and their subrecipients must:

- Make program information available to the public;
- Prominently display the “And Justice for All” poster;
- Inform potentially eligible persons, applicants, participants, and grassroots organizations of programs or changes in programs





# Elements of Public Notification

State agencies and their subrecipients must:

- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons
- Include the required nondiscrimination statement







# Nondiscrimination Statement Usage

At a minimum, the full nondiscrimination statement should be included on:

- Application form(s)
- Notification of Eligibility or Ineligibility
- Verification notice and results letter
- Notice of Adverse Action form
- Program (Home) webpage or a direct link to NDS
- Public information, including program literature





# Nondiscrimination Statement

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# Nondiscrimination Statement

## Short versions

- **This institution is an equal opportunity provider.**
- **Esta institución es un proveedor que ofrece igualdad de oportunidades.** (Spanish)
- Can only be used in special circumstances

## Translations

- Other languages are available on the FNS CRD webpage: <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>







USDA AD-475A

Posters may be ordered using the Material Order Request form available on the NDE, Nutrition Services homepage.







## 2: Data Collection

**USDA**  
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# Obtaining Ethnic/Racial Data

**Purpose:** To determine how effectively FNS programs are reaching potentially eligible persons and beneficiaries.

- Voluntary self-identification or self-reporting (preferred method)
- Income application: Household applications that are completed each year and submitted to the SFA have a section for the household to identify their ethnic and racial data





# Obtaining Ethnic/Racial Data

- Applicants should be assured that the information is required for and used for statistical purposes only and has no bearing on eligibility criteria.
- Data should be collected at the point of application or may be collected at the time of enrollment at a school or childcare facility.
- Children are not to be surveyed.







# Race and Ethnicity Data Collection

## Two Question Format

### 1. Ethnicity (must select one of the following)

- *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*

<https://fns-prod.azureedge.us/sites/default/files/113-1.pdf>







# 3: Language Assistance



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Form AD-3027 (Rev. 04/10) (Public Release) May 2022

Alfabetización en español: Formulario AD-3027 (Rev. 04/10) (Public Release) May 2022







# Limited English Proficiency (LEP)

- Individuals who do not speak English as their primary language and have 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 for persons with LEP.
- Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of national origin.







# LEP and Meaningful Access

**Meaningful access** is provided through reasonable, timely, appropriate, and competent language services to individuals with LEP when accessing programs and services.







# LEP and Meaningful Access

- Factors to consider when ensuring meaningful access:
  - The proportion or number of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient;
  - Frequency with which LEP individuals come in contact with the program;
  - Nature and importance of the program, activity, or service provided by the program;
  - Resources available and their costs







# LEP and Program Access

- Translation of vital documents is required
- Free and Reduced-Price Meal Benefit Applications are available in foreign language translations at:  
<https://www.fns.usda.gov/cn/translated-applications>
- Meal Benefit Income Eligibility Forms are available in foreign language translations at:  
<https://www.fns.usda.gov/cacfp/english-meal-benefit-income-eligibility-form>
- Other program materials may require translation







# LEP and Program Access

- Language services:
  - Applicants and participants cannot be asked to bring their own interpreters
  - Children should not be used as interpreters
  - Use qualified, competent, and accurate language resources:
    - Bilingual staff
    - Telephone interpreter lines
    - Oral interpretation services
    - Written language services
    - Community organizations and volunteers

Make sure interpreter ethics is understood – particularly **confidentiality!**







# LEP Population and Data Sources

- Department of Justice site
  - <http://www.lep.gov/maps/>
- US Census Data
  - <https://data.census.gov/cedsci/>
- American Community Survey
  - <https://www.census.gov/acs/>
- Migration Policy Institute's National Center on Immigrant Integration Policy
  - <http://www.migrationpolicy.org/>











# Definition of a Disability

A person who has a physical or mental impairment which **substantially limits** one or more **major life activity**, has a record of such 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/or working.







# ADA Amendment Act of 2008

- Expanded the definition of disability to include “Major Bodily Functions”:
  - Immune system
  - Normal cell growth
  - Digestive, bowel, and bladder functions
  - Neurological, brain, and respiratory functions
  - Circulatory, cardiovascular, endocrine, and reproductive functions







# Disability and Program Access

- Ensure communication with individuals with disabilities is as effective as communication with others.
- Provide auxiliary aids and services when necessary to ensure program information and services are accessible. Examples include but are not limited to:
  - Qualified sign language interpreters
  - Braille, large print, audio recordings
  - Food service aides, adaptive feeding equipment, meal accommodations, etc.
  - Must ensure physical accessibility to meal service area





# Accommodating Special Dietary Needs

- Child Nutrition Program operators **must** make food substitutions or modifications for meals/snacks for children whose disabilities restrict their diets.
- Costs cannot be charged to the household.
- Documentation (IEP or Medical Statement) is necessary.

Voluntary Guidelines for  
Managing Food Allergies In Schools  
and Early Care and Education Programs



Centers for Disease Control and Prevention  
National Center for Chronic Disease Prevention and Health Promotion  
Division of Population Health







# Integrated Environment

- Section 504 includes an integration clause:
  - An individual with a disability should be accommodated in the least restrictive and most integrated setting possible.
- Child Nutrition Program operators must balance safety versus stigma when developing accommodations (e.g., allergy-free tables)






# 5: Complaint Procedures & Conflict Resolution



United States Department of Agriculture



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\*Form AD-3027—Revised Poster Format May 2022

Nota: la información en este formulario AD-3027 Revisado May 2022







# Complaints of Discrimination

- Applicants or participants allege discrimination based on protected class(es) in CN programs:
  - Race
  - Color
  - National origin
  - Age
  - Sex (including gender identity and sexual orientation)
  - Disability
- SFAs and Institutions are required to **develop** and **implement** a written procedure to handle any discrimination complaint that may be received.







# Discrimination is when an individual or group of individuals are:

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







# Complaints of Discrimination

- Complaints shall be accepted and/or forwarded to USDA;
- Complaints must be filed within 180 days from the alleged act of discrimination;
- Complaints may be written, verbal, or anonymous;
- State agencies or subrecipient agencies may develop their own complaint forms, but the use of such forms cannot be a prerequisite for acceptance;
- A **separate** Civil Rights complaint log shall be maintained by the State agency and subrecipient agency;
- Confidentiality is extremely important and must be maintained.







# Civil Rights Complaint Process

Complainants may choose to:

- Contact USDA directly, **or**
- Contact NDE, Nutrition Services directly, **or**
- Notify the Child Nutrition Program sponsor of their complaint

Sponsors must forward all discrimination complaints received regarding Child Nutrition Programs to NDE Nutrition Services within **5 working days.**







# Civil Rights Complaint Process

Complaints should include:

- Name, address, and telephone number of the complainant (unless submitting anonymously)
- 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 alleged discrimination







# Civil Rights Complaint Process

- USDA complaint form:
  - **English version:**  
[https://www.usda.gov/sites/default/files/documents/Complain\\_combined\\_6\\_8\\_12\\_508.pdf](https://www.usda.gov/sites/default/files/documents/Complain_combined_6_8_12_508.pdf)
  - **Spanish version:**  
<https://www.usda.gov/sites/default/files/documents/USDAProgramComplaintForm-Spanish-Section508Compliant.pdf>







# How to Handle a Complaint

- Use the Complaint Form
- Enter the Complaint on the Log
- Refer the complaint to the SFA's or Institution's civil rights contact person
- Report the complaint to NDE within 5 working days

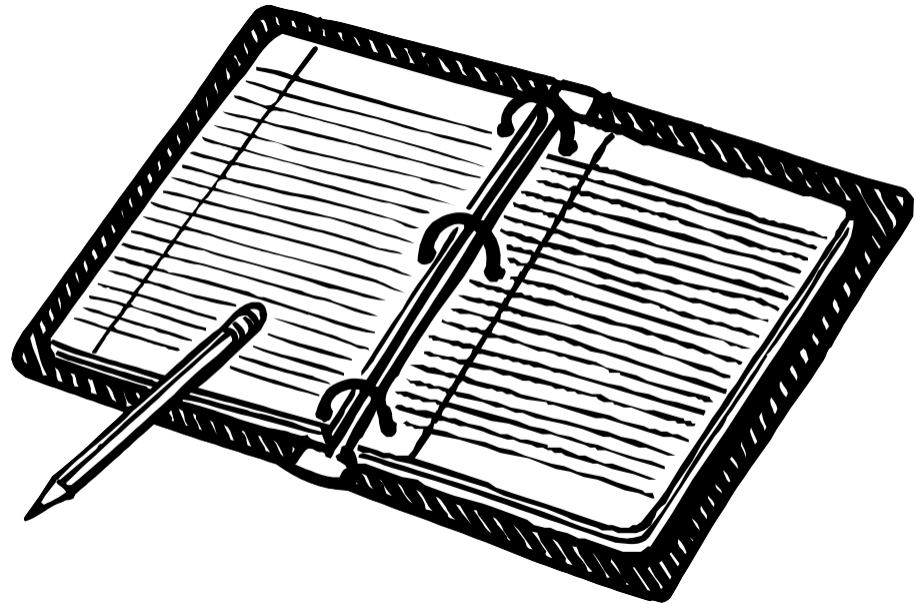






# Civil Rights Complaint Log

Log must be dated and kept for **3 years + current year**, even if no complaints have been received







# Civil Rights (CR) Binder

- Separate sections for:
  - 1) SFA's and Institution's CR complaint procedure,
  - 2) CR complaint Log,
  - 3) Copies of CR complaint forms
- An information sheet that identifies the Civil Rights coordinator for the SFA or Sponsor.







# Conflict Resolution

- It may be possible to avoid potential civil rights complaints with the use of conflict resolution techniques.
  - Remain calm; obtain information about the situation
  - Repeat the information to ensure understanding
  - Bring involved individuals together to talk through the situation
  - Seek assistance from leadership, if necessary





# 6: Compliance Review & Resolution of Noncompliance



## AND JUSTICE FOR ALL

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Form AD-3027-A, Revised Poster Format May 2022

Maletines institucionales/Formatos AD-3027-A/Revisados May 2022



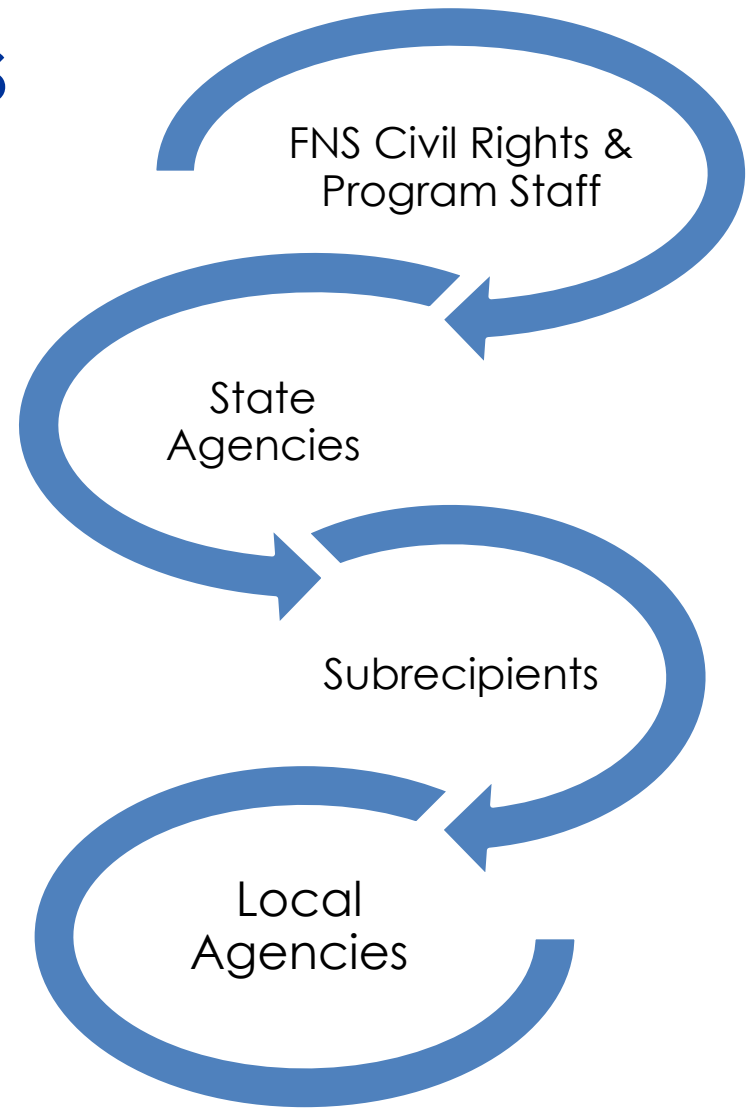




# Compliance Reviews

Examines the activities of State agencies and subrecipients to determine Civil Rights compliance.

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







# Types of Compliance Reviews

## Pre-Award

- State agencies and subrecipient agencies must comply with Civil Rights requirements prior to approval for Federal financial assistance.

## Routine (Post-Award)

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

## Special

- May be scheduled or unscheduled
- Follow-up on previous findings of non-compliance
- Investigate reports of non-compliance by other agencies, media, or grassroots organizations
- May be specific to an incident or policy
- History of statistical underrepresentation of particular group(s)
- Pattern of complaints of discrimination







# Information for SFAs and Sponsors

No separation based by race, color, sex (including gender identity and sexual orientation), disability, age or national origin in:

- Mealtime
- Seating arrangements
- Serving lines
- Eating areas







# Information for SFAs and Sponsors

- Program materials and information are accessible to all
- The USDA “And Justice for All” poster is displayed in prominent place
- Correct nondiscrimination statement on program materials
- Incorrectly denied F/R applications are not disproportionate to a particular group/groups
- Reasonable accommodations are provided for individuals with disabilities







# 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, subrecipient, or a local site.
- Immediate steps must be taken to obtain **voluntary** compliance.
- A finding's effective date is the date of notice to the reviewed entity.







# Voluntary Resolution Agreement (VRA)

- An agreement that recipient(s) are willfully consenting to undertake remedial actions to address identified areas of noncompliance or if in violation with applicable civil rights laws and/or regulations.
- The VRA may be between multiple parties.
- A VRA may be used to closeout a Civil Rights Compliance Review at the discretion of FNS, CRD in lieu of issuing a written Compliance Review report with findings.







# 7: Civil Rights Training



United States Department of Agriculture



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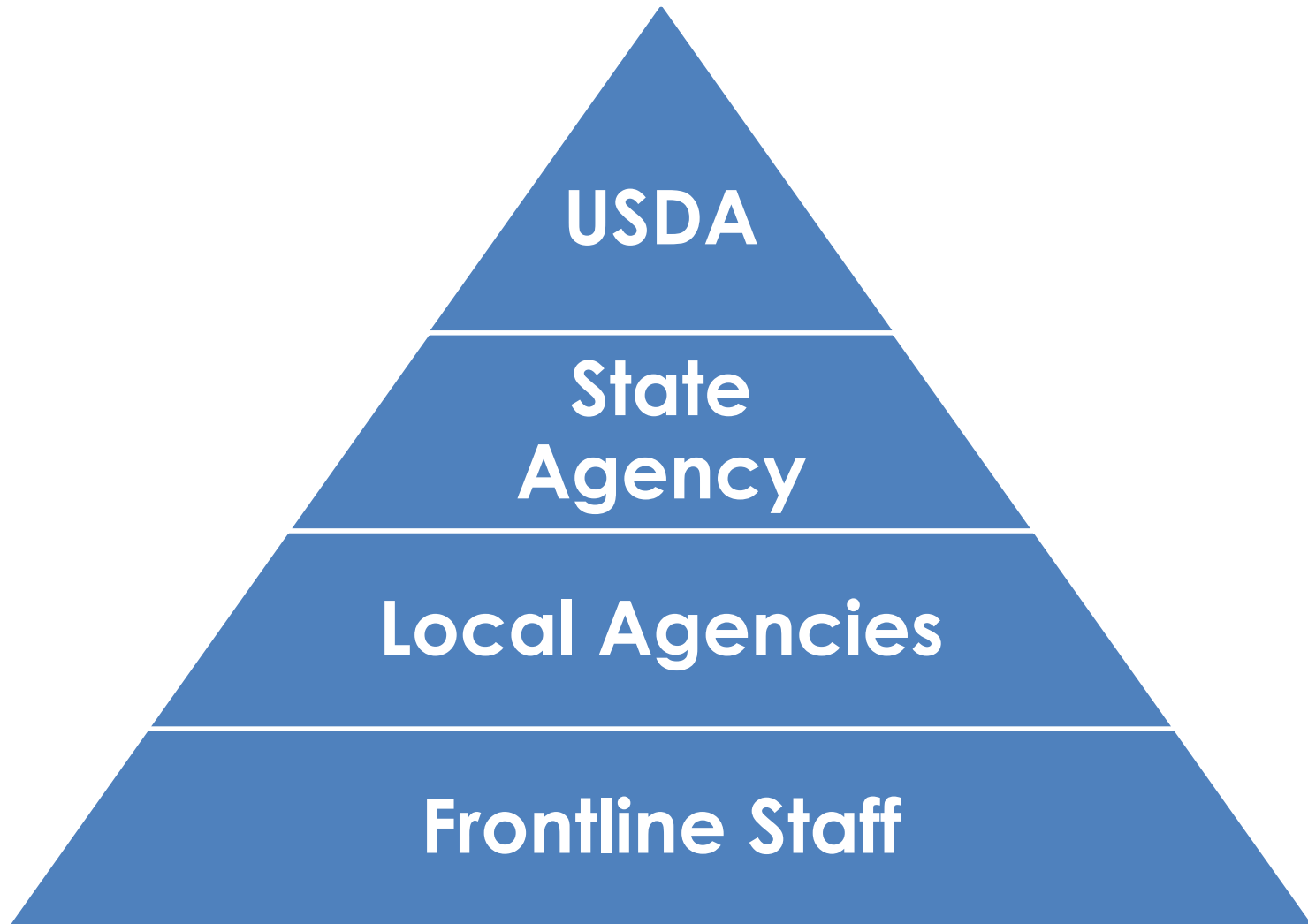
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# Civil Rights Training







# Civil Rights Training

- Child Nutrition Program Sponsors (e.g., SFAs, Childcare Programs, Non-profit Organizations) are responsible for training all frontline staff annually.
  - All food service staff
  - Staff responsible for reviewing/approving free and reduced meal application or income eligibility forms
  - Teachers responsible for breakfast in the classroom or individuals responsible for CACFP meal service
  - Program volunteers
- New employees must receive training prior to involvement in program activities.







# Civil Rights Training

- Training must cover all aspects of Civil Rights compliance, including, but not limited to:
  - Collection and use of data
  - Effective public notification system
  - Complaint procedures
  - Compliance review techniques
  - Resolution of noncompliance
  - Requirements for reasonable accommodations for persons with disabilities
  - Requirements for language assistance for individuals with LEP
  - Conflict resolution
  - Customer service







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# Complaint Procedure Training

- Staff should be able to identify a civil rights complaint if received;
- Staff should know what to do if they receive a complaint;
- Staff must understand that it is a person's basic right to file a complaint of discrimination







# 8: Customer Service



United States Department of Agriculture



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# Customer Service

All participants must be allowed equal opportunities to participate in Child Nutrition programs regardless of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability.

Customers include:

- Applicants
- Participants
- Public







# Customer Service

- Be polite, thoughtful, and patient
- Listen carefully and avoid interruptions
- Respond to questions and provide additional resources when necessary
- Respond to customer's needs appropriately
- Treat all participants equally:
  - seating arrangements
  - serving lines
  - services and facilities
  - assignment of eating periods
  - verification methods and selection







# Ask yourself each time you interact with program participants, applicants or beneficiaries...

- How would I want to be addressed?
- Am I treating this person in the same manner I treat others?
- How can I have a positive impact on this individual's day?
  - Smile
  - Create conversation
  - Ask about their day
  - Encourage participants to try new items







# When interacting with applicants or potentially eligible persons, ask yourself...

- Have I provided this person with all necessary program information?
- Have I informed this person of the information necessary to make a determination on the application?
- Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions?







# Summary

## Civil Rights “Must Do List”

- ❑ Prominently display the *And Justice for All* poster
- ❑ Non-discrimination statement must be on all printed materials available to the public which mention USDA and/or Child Nutrition Program meals and snacks
- ❑ Must offer meals/snacks to all eligible participants (e.g., all students enrolled at a school, all children enrolled at a CACFP sponsor facility, etc.)







# Summary

## Civil Rights *“Must Do List”*

- ☐ Offer Child Nutrition Programs in a non-discriminatory manner
- ☐ Provide meaningful access to individuals with LEP
- ☐ Provide reasonable accommodations for individuals with disabilities
- ☐ Train staff annually on Civil Rights
- ☐ Develop & fully implement a Civil Rights Complaint Procedure









# Nondiscrimination Statement

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