

Annual Civil Rights Training for Agencies Distributing USDA Foods through TEFAP & CSFP

Civil Rights & Food Distribution

- Organizations that accept Federal financial assistance must obey Federal civil rights laws, regulations, instructions, and guidance. USDA foods are considered Federal financial assistance per FNS Instruction 113-1 & FNS Instruction 113-1 Appendix C
- Organizations that receive USDA foods must demonstrate civil rights compliance. This includes annual training for any person working with recipients of TEFAP and/or CSFP food.
- Civil rights laws, regulations, executive orders, and related other guidance can be found on the U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights website:
<https://www.usda.gov/oascr>

Goals of Civil Rights Training

- To provide equal treatment for all applicants and program recipients.
- To provide clients with knowledge of their rights and responsibilities as a program recipient.
- To eliminate barriers that prevent or deter people from receiving benefits.
- To promote dignity and respect for everyone.
- All front-line workers, including volunteers and supervisors, must receive annual civil rights training.

Annual Training

- Knowledge of civil rights applies to most areas of food distribution programs.
- All employees and volunteers who work directly with program applicants and/or recipients (and their supervisors) need to be aware of civil rights requirements.
- Training must be documented annually.

The following policies prohibit discrimination based on race, color, national origin, age, sex, & disability.

Civil Rights Laws	Protected Classes
Title VI – Civil Rights Act of 1964 Civil Rights Restoration Act of 1987	✓ Race/Language ✓ Color ✓ National Origin
Age Discrimination Act of 1975	✓ Age
Title IX of the Education Amendments of 1972	✓ Sex
Section 504 of the Rehabilitation Act of 1973 Americans with Disabilities Act of 1990 ADA Amendments Act of 2008	✓ Disability
Title VII CFR 16.3, Responsibilities of Participation Organizations	✓ Religion
Title VII CFR 247 (CSFP), 250 (Food Distribution), & 251 (TEFAP) FNS Instruction 113-1 & FNS-Instruction 113-1 Appendix C	✓ All Classes

Federally Protected Bases

For TEFAP & CSFP, there are six Federally protected bases:

1. Race
2. Color
3. National Origin
4. Age
5. Sex
6. Disability

State Protected Bases in Vermont

In Vermont, the following are also protected, in addition to all of the Federal bases:

1. Religion
2. Sexual Orientation
3. Gender Identity
4. Marital/Civil Union Status

Definition of Discrimination

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

- **Disparate Treatment** is when a person is intentionally discriminated against as a member of a protected class.
 - *Example: Members of religious groups are denied service because their beliefs do not match the religious teachings of the organization that is distributing food.*
- **Disparate Impact** is when actions that appear neutral have a negative impact on a protected class.
 - *Example: A distribution site makes the Russian clients wait until the end of the day for food because interpreters are not available until late afternoon. This creates a situation where coveted food items may be unavailable to a specific group.*
- **Retaliation** is the negative treatment of a member of a protected class in response to previous civil rights activity. This includes actions against their family and/or their associates.
 - *Example: Family and friends of a client are denied food after the client filed a complaint against the agency.*

Eligibility Requirements vs Discrimination

- Congress has the ability to establish programs that are intended for certain groups of people such as CSFP that serves only persons 60 years of age and older.
- It is not considered discrimination to exclude those who do not meet eligibility requirements for these types of programs.
- For example, Congress can set age limits and this is not age discrimination for those who do not meet the age limits.

Components of Civil Rights Training

In accordance with FNS Instruction 113-1, civil rights training must include, but not be limited to:

- Collection & use of data
- Effective Public Notification Systems
- Complaint Procedures
- Civil Rights Reviews
- Resolution of Non-compliance
- Requirements for Reasonable Modifications to Accommodate Disabilities
- Requirements for Language Assistance
- Conflict Resolution
- Customer Service

Collection and Use of Data for CSFP

- CSFP regulations require annual reporting of client's racial and ethnic data. (FNS-191 Report). **(Note: racial and ethnic data should NOT be collected for TEFAP).**
- Applicants self-declare racial/ethnic data.
- If an applicant refuses to provide racial/ethnic data, they are to be advised that the information will be collected based on your observation.
- Outreach efforts can be targeted to groups not adequately represented in program participation.
- Maintain all records for three years plus the current fiscal year.
- All data collected must be kept secure and confidential.

Public Notification

- There are civil rights requirements for notifying the public about TEFAP and CSFP.
 - All materials, including websites, must contain the USDA non-discrimination statement.
 - Convey a message of equal opportunity through photos and graphics in USDA program-related information.
 - Information should be provided in different formats and languages to meet all levels of ability.
 - Special efforts should be made to reach under-served groups who may qualify for services using appropriate media.

Nondiscrimination Statement

- The “USDA Non-Discrimination Statement” must be included on all materials that mention USDA programs (i.e., TEFAP, CSFP, commodities).
- The statement provides contact information for anyone to file a complaint of discrimination directly with the USDA.
- There is a full version and a short version of the nondiscrimination statement.
- Font size for the full version may be smaller than the rest of the publication, but it must be readable.

Full Version of Non-Discrimination 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](https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint), (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, 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.

Short Version of the Nondiscrimination Statement

“This institution is an equal opportunity provider.”

- The short version may be used where the longer statement does not fit.
- The short version **must** be in a font size no smaller than font size used in rest of publication.
- The short version may not be used in place of the long statement on clients’ rights documents (such as an application).

“...And Justice for All”

Non-Discrimination Poster

- The poster must be prominently displayed where clients and applicants can see it.
- This poster serves as a trademark indicating the site provides a USDA program without discrimination.
- The poster has contact information so that anyone has information to file a discrimination complaint directly with the USDA.
- Agencies can obtain free copies of this poster by:
 - Contacting Joe Dauscher at the Vermont Foodbank at 802-477-4106 or jdauscher@vtfoodbank.org
 - Contacting Vermont Child Nutrition Programs at 802-828-1626.

Current “And Justice for All” Non-Discrimination Poster



Complaints

- Everyone has the right to file a complaint of discrimination.
- Every employee and volunteer must know what to do if someone wants to file a complaint.
 - **What is your agency's process?**
- If a complaint is elevated to the State or Federal office, the USDA will investigate Civil Rights complaints.
- Be aware of the basis for which complaints may be filed:
 - Race, color, national origin, age, sex, disability, and retaliation.
 - If the complaint is based on one of the Vermont protected bases (Religion, Sexual Orientation, Gender Identity or Marital/Civil Union Status), the complaint should be forwarded to the Vermont Agency of Education instead of USDA.
- **Never** discourage someone from filing a complaint or voicing concerns of discrimination.

Complaints of Discrimination

- Complaints shall be accepted and forwarded to the USDA Office of the Assistant Secretary for Civil Rights (OASCR);
- 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 pre- requisite for acceptance;
- A separate Civil Rights complaint log shall be maintained by the State & subrecipient agency;
- Confidentiality is extremely important and must be maintained.

Documenting Complaints

Obtain as much information from complainant as possible:

- Name and contact information of complainant
- Description of incident including date, time, location, and persons present
- Relevant Protected Base(s)

Additional information to include in log:

- Name of organization and individuals alleged to have engaged in discrimination
- Date of referral to USDA OASCR
- The findings of any investigation conducted
- Description of the final disposition of the complaint including any corrective action planned or taken

USDA Discrimination Complaint Form

English:

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

Spanish:

http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf

Civil Rights Reviews

- State and Federal governments are required to conduct reviews to determine compliance with civil rights laws, regulations, and requirements
- Cooperation with State and Federal reviewers is required as a condition of receiving Federal financial assistance (Remember, USDA Food is considered financial assistance).
- There are three types of reviews:
 - Pre-Award: a review conducted before an agency starts distributing TEFAP and/or CSFP.
 - Routine/Post-Award: routine reviews conducted by USDA or the State Agency
 - Special Civil Rights Review: a review conducted by USDA for significant civil rights concerns.

Resolution of Noncompliance

- Corrective Actions may be assigned as a result of the review process.
- Agencies are required to cease inappropriate actions and institute proper procedures.
- Failure to comply with civil rights requirements can result in the loss of Federal assistance from all Federal sources.

Reasonable Modifications to Accommodate Persons with Disabilities

- A reasonable modification is a change in rules, policies, practices, or services so that persons with disabilities will have an equal opportunity to apply for and receive TEFAP and/or CSFP food.
 - The agency should do everything they can to assist a person with disabilities.
 - The agency is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden.
 - Reasonable accommodations may be necessary at all stages of the process, including application, receipt of benefits, and client notification.

Making Modifications

- Is your distribution site accessible? Consider the parking lot, entrances, exits, hallways, elevators, and restrooms.
- Do you have access to a sign language interpreter?
- Do you have signage and paperwork in Braille?
- Do you allow service animals in your facility?
- Do you provide home delivery?

Limited English Proficiency

- Limited English Proficiency (LEP): Individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English because of their national origin.
- Service must be provided, but there is some flexibility on methods used.
- Volunteers may be used as interpreters and must maintain participant confidentiality.
- Children should not be used as interpreters.
- There is a potential for discrimination based on national origin when accommodations are not made for LEP individuals.
- Visit www.lep.gov for more information.
- Recipients of federal funds have a responsibility to take reasonable steps to ensure meaningful access to programs for LEP individuals.

Reasonable Steps to Ensure Meaningful Access

- When do I have to translate CSFP applications into another language?
- Consider the following factors to help make that decision. Keep in mind that shortage of resources does not eliminate meeting this requirement except in cases of extreme hardship.
 - What is the percentage of LEP persons being served?
 - What is the percentage of LEP persons in the eligible local population?
 - What is the frequency of LEP persons' contact with program?
 - How vital is the service to the clients?
 - What are the agency's available resources and cost of services?

Conflict Resolution

- Treat others the way they want to be treated (or at least be aware of what that is).
- Have a written and posted policy for dealing with unacceptable behavior and conflicts.
- Remain calm.
- Listen and really hear the other person.
- Ask questions to gather information.
- Be empathetic.
- Explain situation (rules, expectations).
- Get help, especially if threats or if violence is possible.

Customer Service

- Treat everyone with dignity and respect and make people feel welcomed.
- Be patient and polite.
- Make sure that the clients receive equal treatment and service.
 - Equal does not mean identical.
 - For example, one participant receives corn, another receives green beans.
- Do not do special favors for anyone that you are not prepared to provide for everyone.
 - Disabilities and language needs are not considered special favors since they are required.

Customer Service...continued

- Know and be able to explain policy and rules that must be followed.
- Don't be afraid to apologize.
- Do not treat people differently based on race, color, national origin, age, sex, disability, religion, sexual orientation, gender identity or marital/civil union status
- Do not impose policies that unfairly impact certain groups.
- Do not retaliate against anyone who files a complaint (or their family, friends or employees who cooperate with a civil right investigation).

Customer Service

Final Thoughts

Ask yourself the following questions each time an applicant and/or participant comes to your program:

1. Am I treating this person in the same manner as I treat others?
2. Have I clearly explained to this person what information I need to make a determination on the application?
3. Have I given this person the opportunity to clarify all relevant factors or inconsistencies?
4. Have I provided the person the information they need to make necessary decisions?
5. Am I treating this person as I would wish to be treated?

Equal Opportunity for Religious Organizations

- USDA Regulations (7 CFR 16) require equal opportunity for Faith Based Organizations (FBO's) and Community Based Organizations (CBO's).
- Discrimination is prohibited on the basis of religion or religious belief or character.
- FBOs can use facilities for USDA food distribution without removing religious art or symbols.
- Religious organizations may not use USDA funds or supplies to support worship, religious instruction, or proselytization (attempt to convert).

Civil Rights Final Steps

- Be sure to document that you completed this Civil Rights training.
 - If multiple people reviewed this training together, create a sign-in sheet or participant list documenting all who received the training
- Thank you for completing your annual Civil Rights training.

Questions

For questions related to this training, you may contact:

- Joe Dauscher at the Vermont Foodbank at 802-477-4106 or jdauscher@vtfoodbank.org
- Rosie Krueger at the Vermont Agency of Education, Child Nutrition Programs at 802-828-1589 or Mary.Krueger@Vermont.gov
- Steve Miliano, Regional Civil Rights Officer, USDA Food and Nutrition Service, at (617)-565-6424 or stephen.miliano@usda.gov

Complete Non-Discrimination Statement

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Acknowledgements

Special thanks to the Colorado Office of Economic Security, Division of Food & Energy Assistance for most of the text in this presentation. We appreciate their willingness to share this with Vermont!