



Child Nutrition
Maine Department of Education

Civil Rights



Key Points to Remember

- Know the requirements
- Assess your policies and procedures
- Take corrective actions
- Seek assistance



Civil Rights Legal 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 with Disabilities Act of 1990 (ADA); ADA Amendments Act of 2008

- Disability

Age Discrimination Act of 1975

- Age

Title IX of the Education Amendments of 1972

- Sex



Civil Rights Program Authorities

- 7 CFR Parts 15, 15a and 15b
 - **Nondiscrimination, Education, Disability**
- 7 CFR Parts 210, 215, & 220 (NSLP, SMP, SBP)
- 7 CFR Parts 225 & 226 (SFSP, & CACFP)
- 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State/Local Government Services
- 28 CFR Part 42: Nondiscrimination in Federally Assisted Programs
- Executive Order 13166 – “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000)
- USDA LEP Policy Guidance (79 Fed. Reg. No. 229. Friday, November 28, 2014)
- USDA Departmental Regulation 4330-2
- FNS Instruction 113-1



Equal Opportunity for Religious Organizations

7 CFR Part 16:

- This regulation ensures a religious organization is eligible, on the same basis as any other eligible private organization, to access and participate in USDA assistance programs.



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.



Federally Protected Bases

For Federal Food and Nutrition Service programs, complaints are based on one or more of the six Federally protected bases:

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



Protected Classes Under Maine State Law

- Adds protections for persons with regard to:
 - Religion
 - Ancestry
 - Sexual orientation
- All Federal Child Nutrition Programs operating in public school districts in the State of Maine must adopt both Federal and State protected classes



Assurances

“To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the CR laws and implementing nondiscrimination regulations.”

A civil rights assurance must be incorporated in all agreements between State and local agencies and their subrecipients.

Form FNS-74 Updates the Assurance Language in FNS Instruction 113-1, Appendix B for NSLP, SMP, SBP, SFSP, and CACFP

State agencies, local agencies, and other subrecipients must be in compliance with Civil Rights requirements prior to approval for Federal financial assistance.



Public Notification

All FNS assistance programs must include a public notification system



Elements of Public Notification

- **Program Availability**

Inform applicants and potentially eligible persons of the availability of the program and the steps necessary for participation.

- **Rights and Responsibilities**

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

- **Complaint Information**

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, used by FNS, State agencies, or other subrecipients to inform the public about FNS programs 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.



Methods of Public Notification

- State and local agencies must:
 - Make program information available to the public upon request;
 - Prominently display the “And Justice for All” poster;
 - Inform potentially eligible persons, applicants, participants and grassroots 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;
 - Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons.



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, 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) found online at: 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.

This institution is an equal opportunity provider.



Nondiscrimination Statement *(Spanish)*

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el [Formulario de Denuncia de Discriminación del Programa del USDA](#), (AD-3027) que está disponible en línea en: http://www.ascr.usda.gov/complaint_filing_cust.html y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: 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;
- (3) correo electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.



Nondiscrimination Statement - Use

At a minimum, the full Nondiscrimination Statement should be on vital documents, including but not limited to:

- Application Form(s)
- Notification of Eligibility or Ineligibility
- Notice of Adverse Action Form
- Program (Home) Web Page
- Public Information, including Program literature



Nondiscrimination Statement

USDA Nondiscrimination Statement (NDS)

Must get State Agency approval prior to use of the short version.

"This institution is an equal opportunity provider."

"Esta institución es un proveedor que ofrece igualdad de oportunidades." (Spanish)

Other languages are available on the USDA FNS website



Maine Nondiscrimination Statement

- The Maine Human Rights Act prohibits discrimination because of race, color, sex, sexual orientation, age, physical or mental disability, genetic information, religion, ancestry or national origin.
- If you wish to file a discrimination complaint electronically, please select [File a Complaint](#) and complete an intake questionnaire. Before completing this process it may be helpful to review relevant links under Guidance. If you are not sure how the Maine Human Rights Act may apply to, you please review the publication "[What It Is! How It Works!](#)". Maine is an equal opportunity provider and employer.



“And Justice For All” Poster

- Display the poster in a prominent location for all to view
- AD-475A



AND JUSTICE FOR ALL

U.S. Department of Agriculture

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, audiotape, 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, 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
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fax:
(202) 690-7442; or
email:
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 de los Estados Unidos (U.S. Department of Agriculture, 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/letter/default.html?doc=20120209entah_Form_BSL_Complaint_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 completa 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.

Esta institución ofrece igualdad de oportunidades.

Form AD-475A—Assistive Poster/Poster December 2015

Moja i ilustrowanie 6 Formulario AD-475-A / Formado diciembre 2015



Racial/Ethnic Data Collection - Policy

- Purpose: To determine how effectively FNS programs are reaching potentially-eligible persons and beneficiaries.
- As a means of monitoring civil rights compliance, state agencies shall establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits.
- 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.



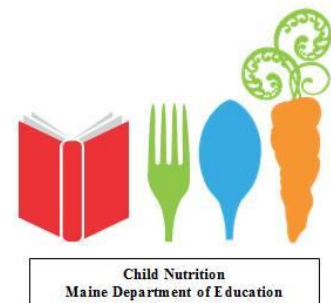
Racial/Ethnic Data Collection

- “...data will be used to determine how effectively FNS programs are reaching potential eligible persons and beneficiaries, identify areas where additional outreach is needed, assist in the selection of locations for compliance reviews, and complete reports as required.
- “...State agencies, local agencies, and other subrecipients are required to obtain data by race and ethnic category on potentially-eligible populations, applicants, and participants in their program service area...Systems for collecting actual racial and ethnic data must be established and maintained for all programs. (FNS Instruction 113-1 Section XII)



Racial/Ethnic Data Collection (cont'd)

- Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.
- 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 Alaskan Native

Asian

Black or African American

Native Hawaiian or Other Pacific Islander

White



Types of Complaints

Customer Service Complaint

- There has been a break down in service, and can result from a lack of customer focus, being insensitive, or demonstrating a lack of understanding

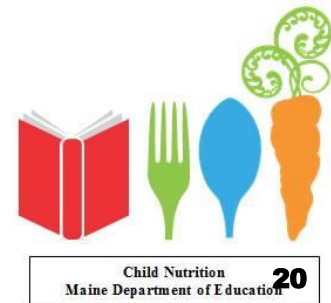
Civil Rights Complaint/Discrimination

- Characterized by the complainant verbalizing or submitting in writing that they feel they have been treated unfairly or discriminated against due to a protected class basis



Complaints of Discrimination

- Complaints shall be accepted and forwarded to the USDA/FNS Regional Office of Civil Rights
- Maine Human Rights Commission must be notified
- 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 and subrecipient agency
- Confidentiality is extremely important and must be maintained



Civil Rights Complaints Process

USDA Discrimination Complaint Form

English

[AD-3027](#)

Spanish

[AD-3027 \(Spanish\)](#)



Maine Human Rights Commission

Filing a complaint of discrimination

Complaints of discrimination must be filed at the office of the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333-0051

The process can be started online [here](#).



Civil Rights Training

- State agencies are responsible for training subrecipient agencies on an **annual basis**
- Subrecipient agencies are responsible for training their local sites, including “frontline staff” who interact with applicants or participants on an **annual basis**.
- New employees before participating in program activities
- Volunteers must receive training appropriate to their roles and responsibilities



Civil Rights Training

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

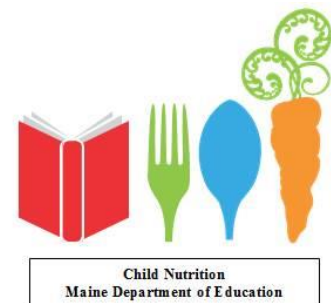
- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service



LEP Language Assistance

Limited English Proficiency (LEP):

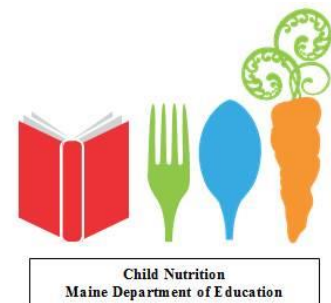
Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English



LEP Requirements

- Title VI and its implementing regulations, Executive Order 13166, and Federal agency guidance require Federal agencies and recipients (State agencies, local agencies, or other subrecipients), to take reasonable steps to ensure “meaningful” access to their programs and activities by Limited English Proficient (LEP) persons.

(FNS Instruction 113-1, Section VII)



LEP – Four Factor Analysis

Factors to consider in addressing LEP

1. The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient.”
2. Frequency with which LEP individuals come in contact with the program.
3. Nature and importance of the program, activity, or service provided by the program.
4. Resources available to the recipient and costs.



LEP Requirements

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/>

Department of Justice site: LEP.GOV

- <http://www.lep.gov/maps/>



Disability Discrimination

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 one's 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 Discrimination (cont'd)

Sections 504 of the Rehabilitation Act of 1973 and USDA implementing Regulation, 7 CFR Part 15b

- prohibit discrimination based on disability in programs or activities receiving Federal financial assistance.

Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A

- prohibits discrimination on the basis of disability in all services, programs and activities provided to the public by State and local governments.

These Civil Rights laws protect persons with disabilities if they are potential applicants or participants in any FNS-funded programs.



Compliance Reviews

There are three types of compliance reviews

1. Pre-Award Compliance Reviews
2. Routine (Post-Award) Compliance Reviews
3. Special Compliance Reviews



Post Award/Routine Compliance Reviews

Areas of review

- Assurances
- Public Notification
- Racial and Ethnic Data Collection and Reporting
- Civil Rights Complaints
- Compliance Reviews
- Resolution of Noncompliance
- Civil Rights Training
- Disability Compliance
- Limited English Proficiency
- Verification of Citizenship or Immigration Status



Special Compliance Reviews

- May be scheduled or unscheduled;
- To follow-up on previous findings of noncompliance;
- To investigate reports of noncompliance 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.



Resolution of Non-Compliance

- 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 agency, or a local site
- Steps must be taken immediately to obtain voluntary compliance
- A finding's effective date is the date of notice to the reviewed entity



Voluntary Resolution Agreement

- A Voluntary Resolution Agreement (VRA) is an agreement that recipient(s) are willfully consenting to undertake remedial actions to address identified areas of noncompliance or in violation with applicable civil rights laws and/or regulations.
- The VRA may be between multiple parties such as the officials in authority to regulate civil rights laws (Food and Nutrition Service, Civil Rights Division, (FNS CRD)), recipient or sub-recipient (State agency or school), and program participant (Complainant).
- Voluntary Resolution Agreements 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.



Verification of Citizenship or Immigration Status

This issue should never give rise to discrimination.



Maine Contact Information

Maine Human Rights Commission
51 State House Station
Augusta, Maine 04333-0051
Telephone (and via Relay): 207-624-6290
Facsimile: 207-624-8729
Website: www.maine.gov/mhrc



USDA Contact Information

Steve Miliano

Civil Rights Director, Northeast Regional Office

Food and Nutrition Service

10 Causeway St. Suite 501

Boston, MA 02222

POC stephen.miliano@fns.usda.gov

Office: (617) 565-642

FAX: (617) 565-6473



Resources

- Maine Department of Education Child Nutrition Civil Rights page:
<http://www.maine.gov/doe/nutrition/statement.html>
- Civil Rights Laws, Regulations, Executive Orders and related Other Guidance:
<https://www.fns.usda.gov/cr/civil-rights-laws-regulations-executive-orders-and-related-other-guidance>
- USDA Limited English Proficiency (LEP) links:
<https://www.fns.usda.gov/cr/limited-english-proficiency-lep>
- USDA Program Discrimination Complaint procedure:
<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>



