

Section 6000

Civil Rights

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6000 Civil Rights

All nutrition assistance programs and activities that receive Federal funding are protected and subject to civil rights oversight. CEs are responsible for ensuring that all qualifying persons have equal access to the FMNP by complying with the civil rights and nondiscrimination requirements of USDA. (7 CFR §248.7)

In the USDA nutrition programs administered by TDA, there are six bases protected against discrimination. A protected basis refers to any person or group of people who have characteristics for which discrimination is prohibited based on law, regulation, or executive order. Protected bases in the USDA nutrition assistance programs administered by TDA are:

- Race
- Color
- National origin
- Sex
- Age
- Disability

Reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA is also prohibited.

A CE must strictly adhere to and enforce the provisions of the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), both within the CEs administrative office and if a sponsor, within the sites it sponsors.

Refer to USDA Food and Nutrition Service (FNS) Instruction 113-1, *Civil Rights Compliance and Enforcement – Nutrition Programs and Activities* for additional information.

6100 Title VI of the Civil Rights Act of 1964

6110 Public Notification

CEs must have a public notification system to inform applicants, participants, and potentially eligible person of the FMNP availability, FMNP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. CEs must make FMNP information available to the public upon request. CEs also must be able to provide informational materials related to the FMNP in languages other than English, if the need exists. Refer to Item 6130, *Limited English Proficiency* for additional information.

CEs must convey the message of equal opportunity in all photographic and other graphics that are used to provide information related to FMNP. Specifically, when human likenesses are used in such materials, reasonable efforts must be made to depict an ethnic and racial balance.

NOTE: In FMNP, public notification of the FMNP, FMNP rights and responsibilities, the policy of nondiscrimination, and procedures for filing a complaint is also handled at the WIC clinic.

6110.1 And Justice for All Posters

CEs and each contracted site must prominently display the USDA nondiscrimination poster ("And Justice For All") in a place where it may be read by participants at all times. All "And Justice for All" posters must be displayed in a specific size: 11 inches width x 17 inches height. More information about the "And Justice for Poster" may be found on USDA's web site at www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations.

6110.2 Nondiscrimination Statement

CEs must provide the following nondiscrimination statement and complaint-filing procedures in all FMNP information intended for participants:

In accordance with federal civil rights 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, disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), 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.

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: <https://www.usda.gov/sites/default/files/documents/ad-3027.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:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

- (2) fax: (833) 256-1665 or (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

In Spanish the nondiscrimination and complaint-filing procedure is:

De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo, discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: <https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf>, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a 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; o
- (2) fax: (833) 256-1665 o (202) 690-7442; o
- (3) correo electrónico: program.intake@usda.gov

Esta institución es un proveedor que ofrece igualdad de oportunidades.

The nondiscrimination statement must be printed in its entirety on all FMNP documents that are intended for the public. FMNP-related written materials must be provided to all participants with the nondiscrimination statement and complaint-filing procedures included. The nondiscrimination statement cannot be modified.

If the FMNP material is too small to permit the full statement to be included, the material must, at a minimum, in print no smaller than text, state: "This institution is an equal opportunity provider."

The entire nondiscrimination statement does not have to be included on every page of a CE's FMNP information website; at minimum the nondiscrimination statement or a link to the statement must be included on the CE's home page.

NOTE: Whenever Congressional legislation specifies or sets restrictions on program eligibility, those provisions take precedence over certain protected bases. Section 17 of the Child Nutrition Act of 1966, as amended, defines the purpose of the WIC program to provide benefits specifically to pregnant, breastfeeding, and postpartum women, and infants and children to five years of age. Therefore, any reference to age and sex in the nondiscrimination statement as it relates to the WIC and FMNP is subject to these qualifications.

6120 Compliance Reviews

Compliance reviews help ensure that civil rights requirements are fulfilled at each level of FMNP administration, including the CE application approval process and the federal and state monitoring efforts.

TDA will determine whether the CEs and their sites comply with civil rights requirements before approval of a CE's application to participate. TDA determines compliance by examining *Plan of Operation* (Form H1406) and supporting documentation. During administrative reviews, TDA will also evaluate compliance with civil rights requirements.

6130 Limited English Proficiency

CEs must take “reasonable steps” to ensure meaningful access to their programs by participating persons with disabilities and for persons with Limited English Proficiency (LEP). People with LEP are those who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

CEs have an obligation to reduce language barriers that can prevent meaningful access by LEP persons to important benefits, programs, information, and services of the FMNP. CEs that fail to take reasonable steps may be discriminating on the basis of national origin. Reasonable steps to ensure meaningful access is contingent on a number of factors, including:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the FMNP;
- The frequency with which LEP individuals come in contact with the FMNP;
- The nature and importance of the FMNP to people's lives; and
- The resources available to the CE and costs.

Elements that may be helpful in designing an LEP policy or plan:

- Identifying LEP persons who need language assistance
- Identifying ways in which language assistance will be provided
- Training staff
- Providing notice to LEP persons
- Monitoring and updating LEP policy

6140 Data Collection and Reporting

Because racial and ethnic participation data are collected at the time women, infants, and children are certified to participate in the WIC Program, USDA has determined that the WIC data collection effort is sufficient to fulfill the racial and ethnic data collection requirement for the FMNP. Therefore, FMNP CEs are not required to collect additional racial and ethnic data. (7 CFR §248.7)

6200 Section 504 of the Rehabilitation Act of 1973

6210 Program Accessibility

The FMNP, when viewed in its entirety, must be accessible to and usable by persons with one or more disabilities, including persons with impaired vision or hearing. CEs are not required to make every part of existing sites physically accessible to disabled persons, but must ensure that programs at those sites are accessible. Sites must offer the most integrated setting possible to enable persons with disabilities to fully benefit from the FMNP. CEs can make the FMNP accessible to persons with disabilities by

- Moving to accessible buildings,
- Assigning aides to assist participants,
- Delivering services at alternate accessible sites (for facilities with 15 or fewer employees),
- Redesigning equipment,
- Changing the schedule of service hours,
- Altering existing facilities, and
- Constructing new, accessible facilities.

CEs should develop transition plans to ensure FMNP accessibility if structural changes to buildings are necessary.

If CEs cannot provide services to a person with disabilities because a part of a site where services are provided is not accessible, they must

- Inform persons with disabilities of alternate sites where they can receive services, and
- Pay all or part of any additional cost the person with disabilities incurs as a result of being transported to the alternate site. (There are some circumstances when CEs are not required to pay these costs. Contact TDA if additional information is needed.)

6220 Public Notification

CEs must have a public notification system to inform applicants, participants and potential participants of the FMNP availability, FMNP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. The public notification system must include the following three basic elements:

1. **FMNP Availability.** CEs must take specific action to inform participants of their rights and responsibilities.
2. **Complaint Information.** CEs must advise participants of the right to file a complaint, how to file a complaint, and the complaint procedures.

3. Nondiscrimination Statement. CEs must ensure all information materials and sources, including websites, used to inform the public about the FMNP contain the nondiscrimination statement located in Item 6110.2, *Nondiscrimination Statement*.

NOTE: In FMNP, public notification of the FMNP, FMNP rights and responsibilities, the policy of nondiscrimination, and procedures for filing a complaint is also handled at the WIC clinic.

6230 Employment

CEs are prohibited from discriminating against any qualified person based on a disability. CEs must make reasonable accommodations for the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. CEs are not expected to make accommodations that impose an undue hardship on the operation of the program.

6240 Nondiscrimination Statement (Assurances)

The statement of nondiscrimination is contained in the *FMNP Agreement*.

6250 Designation of Section 504 Coordinator

If a CE employs 15 or more people, the CE must designate one or more persons to coordinate compliance with Section 504 regulations. CEs may designate an existing employee to perform this function. (7 CFR §15b.6)

6260 Complaint/Grievance Procedures

If a CE employs 15 or more people, the CE must maintain procedures to process grievances and complaints. Procedures that are required by a program other than the FMNP may satisfy this requirement if they comply with due process standards and provide for prompt and equitable resolution of complaints. (7 CFR §15b.6(b))

6270 Self-Evaluation of Services

CEs must evaluate the quality and availability of their services to people with disabilities, and begin to correct any inequitable policies or practices. The evaluation should be made with the assistance of people with disabilities or organizations that advocate for people with disabilities. CEs must maintain a list of interested persons with whom they consulted, a description of areas that they examined and the problems that they identified, and descriptions of modifications that they made.

CEs must retain the results of a self-evaluation study in accordance with FMNP record-keeping requirements. Refer to Item 4700, *Program Documentation*, for additional guidance.

6300 Americans with Disabilities Act (ADA)

6310 Introduction

The Americans With Disabilities Act (ADA) became effective January 26, 1992. This Act and Section 504 of The Rehabilitation Act of 1973 combine to prevent a wide range of discriminatory actions against disabled persons. The ADA, however, does not replace Section 504. The ADA applies to all persons and is not limited solely to persons who receive federal financial participation.

The ADA comprises the following subjects:

- Non-discriminatory practices
- Reasonable accommodation

The ADA applies to the following areas:

- Services
- Employment

6320 Services

When CEs evaluate the services that they and their sites offer, CEs should consider the following questions:

- Can a person with disabilities get to a site with reasonable ease?
- If the person can reach the location, can the person enter the facility and access the specific location where services are provided?
- If the person can access the location where services are provided, is there an accessible bathroom?
- If the person can access the location where services are provided, are necessary accommodations made for the person's particular disability?

6330 Employment

In accordance with the ADA, CEs

- Cannot discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job.
- Can inquire about a person's ability to perform a job but cannot ask whether a person has a disability nor subject a person to tests that screen out people with disabilities.
- Must provide reasonable accommodations to persons with disabilities (for example, job restructuring and modification of equipment).

NOTE: CEs are not required to provide accommodations that impose an undue hardship on their businesses. CEs faced with such a request are encouraged to contact TDA for further assistance.

6400 Complaints

CEs, sub-agencies, and distribution sites must have written grievance procedures for addressing and processing complaints. Administrative and site personnel must be able to provide documentation of the procedures and an explanation of the complaint process. The CE, sub-agency, or distribution site may incorporate the FMNP grievance procedures into existing organization-wide complaint procedures rather than develop standalone grievance procedures for the FMNP.

6410 Civil Rights Complaints

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. Complaints can be written or verbal. If the complainant makes a verbal complaint, the person to whom the allegation is made must write up the elements of the complaint and should make every effort to obtain the following information:

- Name, address, and telephone number or other means of contacting the complainant;
- The specific location and name of the organization participating in FMNP;
- The nature of the incident or action that led to the complaint of discrimination;
- The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability or sex);
- The names, telephone numbers, titles, and business or personal address of persons that may have knowledge of the alleged discriminatory action; and
- The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

If a civil rights complaint is filed, the CE must forward it to USDA immediately. The complaints should be sent to:

USDA Food and Nutrition Service
Attn: Regional Civil Rights Director
1100 Commerce St.
Dallas, Texas 75242

In addition to notifying USDA, all civil rights complaints must also be forwarded to TDA immediately. CEs may submit TDA's complaint form on behalf of the complainant via TDA's Complaints form (<https://app.smartsheet.com/b/form/063062f61d4d42e590290cbddb4ea35b>) located on the FMNP Administration/Forms page on SquareMeals.org. Finally, CEs, sub-

agencies, and distribution sites are also required to provide the complainants with contact information for USDA for filing a civil rights complaint¹ and explain that a complaint of a violation of their civil rights may be made directly to USDA.

6500 Training

Administrative and site personnel must be trained in all aspects of civil rights before assuming any FMNP duty and annually thereafter.

Volunteers who regularly interact (i.e., have contact at recurring normal intervals) with FMNP participants must receive full civil rights training on an annual basis. Volunteers who handle the personal information of participants must also receive full training. Full training, according to USDA, includes but is not limited to, the following:

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

Volunteers who do not handle personal information and only infrequently interact (i.e., seldom or rarely) with FMNP participants must receive, at a minimum, limited civil rights training (i.e., customer service and any other subject matter applicable to each volunteer's role and responsibilities). As not all the subjects for full civil rights training are required, this training may be less time-intensive than the full training provided to the frontline staff and volunteers who regularly interact with or handle personal information of FMNP participants.

Volunteers who do not interact in any way with FMNP participants and who do not handle personal information do not need civil rights training.

If there is a concern that any volunteer cannot understand and/or abide by the training and civil rights requirements, then that volunteer should not interact in any way with FMNP participants or handle personal information.

Refer to Item 11500, *TDA Civil Rights Training Materials*, for information on how to access civil rights training.

¹ See Item 6110.2, *Nondiscrimination Statement*, in this section.