

Section 6

Civil Rights

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Section 6 Civil Rights

All nutrition assistance programs and activities that receive Federal funding are protected and subject to civil rights oversight. Contracting entities (CEs) are responsible for ensuring that all qualifying persons have equal access to The Emergency Food Assistance Program (TEFAP) by complying with the civil rights and nondiscrimination requirements of the U.S. Department of Agriculture (USDA). (7 CFR §251.10(c))

In the USDA nutrition programs administered by the Texas Department of Agriculture (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 Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA).

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

Title VI of the Civil Rights Act of 1964

Public Notification

CEs must have a public notification system to inform applicants, participants, and potentially eligible persons of TEFAP availability, TEFAP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. CEs must make TEFAP information available to the public upon request. CEs also must be able to provide informational materials related to TEFAP in languages other than English, if the need exists. Refer to “Limited English Proficiency” in this section 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 TEFAP. Specifically, when human likenesses are used in such materials, reasonable efforts must be made to depict an ethnic and racial balance.

...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 All” poster may be found on USDA’s website.¹

¹ Found at www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations.

Nondiscrimination Statement

The CE and site must provide the following nondiscrimination statement and complaint-filing procedures in all applications and on all TEFAP materials that are produced for public information, public education, or public distribution:

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, audiotope, 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; or
- (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 TEFAP documents that are intended for the public unless the document fits one of the exceptions below:

- Sometimes, the material is too small to permit the full nondiscrimination statement. In this case, the material must include, in a font size no smaller than the other text, the following statement: “This institution is an equal opportunity provider.”
- The nondiscrimination statement is not required to be printed on items such as cups, buttons, magnets, and pens that identify TEFAP when the size or configuration makes it impractical.
- When advertising TEFAP through radio or television announcements, the entire nondiscrimination statement does not have to be read. Rather, a statement such as “TEFAP is an equal opportunity provider” is sufficient.
- The entire nondiscrimination statement does not have to be included on every page of a CE’s TEFAP information website; at minimum, the nondiscrimination statement or a link to the statement must be included on the CE’s home page.

The Collection of Racial and Ethnic Data

Federal guidance exempts CEs from collecting racial and ethnic data. The only required information for TEFAP eligibility is specified in Section 3, *Managing the Program*, “Household Application for USDA Foods (Form H1555)/Household Application for USDA Foods-Alternate (H1555B).”

CEs may collect additional information, such as racial and ethnic data. **However, the collection of additional data must not be a real or perceived barrier to participation.** In other words, a CE must allow an applicant to supply only the federally required information to receive TEFAP foods.

If a CE creates a customized intake form, the form must state clearly that an applicant can receive TEFAP foods by providing **only** the information specified in Section 3, *Managing the Program*, “Household Application for USDA Foods (Form H1555)/Household Application for USDA Foods-Alternate (H1555B).”

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 must reduce language barriers that can prevent meaningful access by LEP persons to important benefits, programs, information, and services of the TEFAP. CEs that fail to take reasonable steps may be discriminating based on national origin. Reasonable steps to ensure meaningful access is contingent on several factors, including:

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

Elements that may help design 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

Administrative Reviews

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

TDA will determine whether the CE and its subdistributing agencies and distribution sites comply with civil rights requirements before approving the initial application to participate. TDA determines compliance by examining the *Application for Participation/Plan of Operation*, and supporting documentation, as well as by conducting a visit prior to approval to verify the information. During reviews, TDA will also evaluate compliance with civil rights requirements.

Section 504 of the Rehabilitation Act of 1973

Program Accessibility

TEFAP, 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, subdistributing agencies, and distribution sites are not required to make every part of existing facilities physically accessible to differently-abled persons but must ensure that programs at those facilities are accessible. Each facility must offer the most integrated setting possible to enable persons with disabilities to fully benefit from TEFAP.

CEs, subdistributing agencies, and distribution sites can make programs accessible to persons with disabilities by taking the following steps:

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

CEs, subdistributing agencies, and distribution sites should develop a transition plan to ensure TEFAP accessibility if structural changes to buildings are necessary.

If a CE, subdistributing agency, or distribution site cannot provide services to a person with disabilities because a part of a facility where services are provided is not accessible, they must:

- Inform the person with disabilities of alternate facilities where they can receive services.
- Pay all or part of any additional cost the person with disabilities incurs as a result of being transported to the alternate facility. (There are some circumstances when CEs, subdistributing agencies, and distribution sites are not required to pay these costs. Contact your USDA Foods Specialist² for additional information.)

Public Notification

CEs must have a public notification system to inform applicants, participants, and potential participants of TEFAP availability, TEFAP 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. TEFAP 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 TEFAP contain the nondiscrimination statement located in “Nondiscrimination Statement” in this handbook section.

Employment

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

Civil Rights Assurances

The statement of nondiscrimination is contained in the *TEFAP Agreement Between Contracting Entity and the Texas Department of Agriculture*.

Designation of Section 504 Coordinator

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

² Email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325).

Complaint and Grievance Procedures

If a CE, subdistributing agency, or distribution site employs 15 or more people, it must maintain procedures to process grievances and complaints. Procedures that are required by a program other than TEFAP 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))

For a complaint form, see www.SquareMeals.org. Choose I Need To . . . then File a Complaint.

Self-Evaluation of Services

CEs, subdistributing agencies, and distribution sites must evaluate the quality and availability of 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 consult, a description of areas that they examine, the problems that they identify, and descriptions of modifications that they make.

CEs must retain this information per TEFAP recordkeeping requirements. Refer to *TEFAP Handbook*, Section 3, *Managing the Program* for additional guidance.

Americans with Disabilities Act

Introduction

The Americans With Disabilities Act (ADA) became effective on 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. However, the ADA 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

Services

When evaluating the services that a CE, subdistributing agency, or distribution site offers, a CE should consider the following questions:

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

Employment

Under the ADA, CEs, subdistributing agencies, and distribution sites must comply with the following requirements:

- Must not discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job
- May 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, e.g., job restructuring and modification of equipment

NOTE: CEs, subdistributing agencies, and distribution sites are not required to provide accommodations that impose an undue hardship on its business. CEs faced with such a request are encouraged to contact TDA for further assistance.

Sites Located at Religious Organizations

Federal civil rights laws address explicitly religious activities as part of TEFAP. For more information, see Section 3, *Managing the Program*.

Complaints

CEs, subdistributing 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, subdistributing agency, or distribution site may incorporate the TEFAP grievance procedures into existing organization-wide complaint procedures rather than develop standalone grievance procedures for TEFAP.

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 TEFAP;
- 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 TEFAP Administration/Forms page on SquareMeals.org. Finally, CEs, subdistributing agencies, and distribution sites are also required to provide the complainants with contact information for USDA for filing a civil rights complaint³ and explain that a complaint of a violation of their civil rights may be made directly to USDA.

Anonymous Complaints

An anonymous complaint will be handled as any other complaint, to the extent feasible, based on available information.

Complainant Confidentiality

CEs must protect the confidentiality, and other rights, of any person making allegations or complaints against another individual participating in, or administering TEFAP, except as necessary to conduct an investigation, hearing, or judicial proceeding, as applicable.

Training

The CE, subdistributing agency, and distribution site personnel must be trained in all aspects of civil rights before assuming any TEFAP duty and in every program year thereafter.

Volunteers who regularly interact (i.e., have contact at recurring normal intervals) with TEFAP applicants

³ See “Nondiscrimination Statement” in this section.

and participants or determine eligibility must receive full civil rights training on an annual basis. Volunteers who handle the personal information of applicants and 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 TEFAP applicants and 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 TEFAP applicants and participants.

Volunteers who do not interact in any way with TEFAP applicants and 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 TEFAP applicants and participants or handle personal information.

To meet the civil rights training requirements, CEs should follow the training guidance located on www.SquareMeals.org, under: <https://squaremeals.org/FandN-Resources/Training/Civil-Rights>.