

1.08 Civil Rights

POLICY:

The Local Agency will adhere to requirements set forth in FNS Instruction 113-1, dated 11/8/2005, which incorporates USDA policies and prohibitions against discrimination, by authority of Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, The Civil Rights Restoration Act of 1987, The Food Stamp Act of 1977, Enforcement of Title VI of the Civil Rights Act of 1964 (65 F.R. 50123) and USDA Regulations.

DEFINITIONS:

Complaint (see FNS 113-1, page 4, item H): A verbal or written allegation of discrimination that indicates an FNS-conducted or -assisted program is administered or operated in such a manner that it results in disparity of treatment or services being provided to persons or groups of persons because of their protected bases.

Discrimination (see FNS 113-1, page 4, item M): The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected bases.

Grassroots Organization (see FNS 113-1, page 5, item P): An organization at the local level that interacts directly with potential eligibles or participants, such as an advocacy organization, community action program, civic organization, migrant group, religious organization, neighborhood council, or other similar group.

Disability (see FNS 113-1, page 4, item L): A physical or mental impairment that substantially limits one or more of an individual's major life activities, having a record of such impairment, or being regarded as having such an impairment.

PROCEDURE:

A. Civil Rights Coordinator/504 Coordinator

1. The Local Agency Director will appoint an individual to act as the Local Agency Civil Rights Coordinator/504 Coordinator.
 - a. The Coordinator's name will be submitted in writing to the State Agency Director. The State Agency Director will be notified of personnel changes and/or vacancies in this appointment.
 - b. The Local Agency Civil Rights Coordinator/504 Coordinator will:
 - i. Maintain the **Civil Rights File**;
 - ii. Provide civil rights training;
 - iii. Handle all civil rights complaints;
 - iv. Disseminate information requested by personnel and/or public; andPerform other liaison functions as needed

B. Civil Rights File

1. A Civil Rights File maintained at the Local Agency will contain the following documents:
 - a. FNS Instruction 113-1, dated 11/08/2005;

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- b. Grassroots Organization Directory; and
- c. **Local Agency 504 Evaluation (see Attachment #1 1.08).**

- 2. A copy of each complaint and decision received will be maintained on file for at least three (3) years plus the current year.

C. Public Notification and Outreach

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, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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 State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [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, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

- a. When space prohibits use of the lengthy statement, the following statement may be used, in print size no smaller than the text: "This institution is an equal opportunity provider, employer, and lender."

Radio and television advertising must contain the statement, but in cases where time constraints are imposed, the statement may be reduced to the following:

"This institution is an equal opportunity provider, employer, and lender."

1. And Justice For All Poster

At least one (1) **And Justice For All** poster will be visibly posted in each Local Agency WIC clinic in an area that is frequented by applicants/participants.

2. Limited English Proficiency/Interpretation Services

- a. Limited English Proficiency (LEP) are persons whose proficiency in speaking, reading, writing, or understanding English, as a result of national origin, is such that it would deny or limit their meaningful access to WIC services if language assistance were not provided.

- b. The State Agency will at a minimum yearly assess the language needs of West Virginia WIC participants and determine appropriate measures to meet the language needs of LEP participants. Decisions about the extent of language assistance provided will consider the following factors:
 - i. The types and number of languages spoken
 - ii. The size of the LEP population
 - iii. Clinic size
 - iv. Staffing and other available resources
 - v. The frequency in which local agencies encounter LEP persons.
- c. It is the responsibility of the WIC Program to provide interpreters for WIC Services. Applicants and clients must be informed of the right to request an interpreter at no charge to them. However, WIC will only pay for interpreters who are scheduled by the WIC staff.
 - i. Interpreters will be provided by the Local Agency upon request with 5 days prior notice.
 - ii. Interpreters will wait no more than 30 minutes after the scheduled appointment time.
 - iii. Failure to show up within 30 minutes for an appointment in which an interpreter is scheduled may result in not having an interpreter scheduled for future appointments if this happens three (3) times.
 - iv. Bilingual WIC staff who are trained and competent in the skill of interpreting are considered acceptable interpreters.
 - v. A family member or friend is not considered an acceptable interpreter unless the applicant/participant specifically requests that person to interpret; use of another WIC participant, a volunteer or any other non-professional as interpreter is not permitted due to confidentiality issues, unless this is requested by the applicant/participant.
 - vi. WIC staff may access telephone interpreter services through the State of West Virginia contracted telephone interpreter service, if this is acceptable to the participant.
 - vii. WIC Services will not be denied when an interpreter is not available.
- d. Document the participant's preferred read and spoken language on the **Family Demographics Screen**. If **Language Read** and/or **Language Spoken** is not English or Spanish, use the "yellow sticky note" to document the preferred language.

3. Non-English or Limited English-Speaking Persons

Where a significant portion of the population of the local WIC service area is composed of non-English or limited English-speaking persons who speak the same language, the Local Agency will ensure that all required WIC Program information is provided to such persons in the appropriate language orally and in writing.

- a. Bilingual personnel or interpreters will be available to serve these persons.
- b.
- c. All rights and responsibilities listed on the **Participant Agreement (WIC-05)** will be read to those applicants in the appropriate language.

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4. Underrepresented Populations

Agencies or organizations in the Local Agency geographic area which specifically serve racial/ethnic groups or other protected groups underrepresented in the general population will be identified by the Local Agency. The Outreach Coordinator will be responsible for adding such agencies or organizations to the Community Network Agencies list (see Attachment #1, 7.03) to ensure that equal efforts are made to inform underrepresented populations of WIC services and benefits

D. Data Collection

1. Racial/ethnic data must be collected by the Local Agency during WIC Program certification through self-reported identification.
 - a. Applicants/participants will be asked to self-identify their racial/ethnic group only after it has been explained, and they understand that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to participate in the Program.
 - b. Racial/ethnic data will be reported in the **Crossroads Participant Demographics Screen**.
 - c. The State WIC Agency will produce a racial/ethnic report for each Local Agency.

E. Compliance Reviews

1. The Local Agency will be monitored on civil rights during the State Agency Local Agency Program Review and Local Agency Internal Review. See **Policy 9.01 State Agency Review of Local Agency Program, Attachments 2 and 4**.
 - a. The **Civil Rights Notebook** will be examined to see that it contains the appropriate documents.
 - b. The Monitor will look for appropriate use of the FNS-approved nondiscrimination statement and the posting of the **And Justice For All** poster.
 - c. The Monitor will inquire about methods used to collect racial/ethnic data.
 - d. The Monitor will ask several questions to assess if there are any operational procedures which have either deliberately or unknowingly resulted in discrimination.
 - e. The Local Agency will address deficiencies found during the monitoring and write a plan for corrective action.

F. Civil Rights Training

1. The Local Agency Civil Rights Coordinator will:
 - a. Provide civil rights training to all new WIC personnel;
 - b. Provide annual civil rights training to all Local Agency staff. Annual training will be due in the same calendar month each year. Training may be as a group or by individual. All persons must complete training between the first and last day of the calendar month. Training may occur earlier (less than 12 months from the last training) but will be due again no later than the same calendar month in the next year (**See Policy 1.19, WIC Staff Training**); and
 - c. Use the training curriculum provided by the State Agency or obtain prior approval on other Civil Rights Training curriculum.

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2. Civil rights training will include, but not limited to, the following:

- a. Collecting and using racial/ethnic data
- b. Effective public notification systems
- c. Complaint procedures
- d. Compliance Review Techniques
- e. Resolution of noncompliance
- f. Requirements for reasonable accommodation of persons with disabilities
- g. Requirement for language assistance
- h. Conflict resolution, and
- i. Customer Service

G. Civil Rights Complaints

The Local Agency will accept written and verbal complaints of discrimination lodged against the State Agency, Local Agency, and WIC clinic or retail store. Such complaints may be filed by State Agency and Local Agency employees and potential employees, program applicants, participants, caretakers or anyone who observes discrimination in the delivery of Program benefits.

1. The Local Agency will use the following procedures for accepting civil rights complaints.

- a. The State Agency/Local Agency must accept all civil rights complaints filed within one-hundred eighty (180) days of the alleged discriminatory action.
- b. Civil rights complaints must be accepted whether written, verbal, identified or anonymous.
- c. Verbal or phoned complaints or allegations in which the complainant refuses or is not inclined to put in writing will be written by the WIC personnel taking the complaint.
- d. WIC personnel taking the verbal complaint will attempt to obtain the following information:
 - i. Name, address and phone number of the complainant or other means of contacting the complainant;
 - ii. The specific name and location of service delivery site;
 - iii. Nature of the action that led the complainant to feel that discrimination was a factor;
 - iv. Basis on which complainant feels discrimination exists (race, sex [including gender identity and sexual orientation], age, color, national origin, disability, or retaliation);
 - v. Names, titles and business address of person(s) who may have knowledge of discriminatory action; and
 - vi. Dates during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

2. If the complainant wishes to file a written Civil Rights program complaint of discrimination, they can complete the **USDA Program Discrimination Complaint Form**, found online at [How to File a Program Discrimination Complaint](#), or at any USDA office, or they can call (866) 632-9992 to request the form. They can also write a letter containing all of the information requested in the form. They should send their completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C.

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20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

3. Documentation of Civil Rights complaints at the Local Agency will be maintained by the Local Agency Director as part of the **Civil Rights Notebook**. See **Policy 9.01 State Agency Review of Local Agency Program, Attachments 2 and 4**.
4. Copies of each civil rights complaint will also be sent to the following within 5 calendar days upon receipt of the complaint:
*Regional Civil Rights Officer
Food and Nutrition Service
Mid-Atlantic Region
Mercer Corporate Park
300 Corporation Boulevard
Robbinsville, NJ 08691-1598*

*Director, State WIC Program
350 Capitol Street, Room 515
Charleston, WV 25301-3717*
5. Contact the State Agency **immediately** with any questions.

H. Applicants/Participants with Disabilities

1. The Local Agency will make provisions to screen for applicants with disabilities and provide all WIC services to all participants with disabilities.
2. A self-evaluation of Program accessibility will be conducted for each Local Agency WIC clinic using the **Local Agency 504 Evaluation** (see **Attachment #1**).
 - a. The self-evaluation will be maintained in the Local Agency **Civil Rights File**.
 - b. A copy will be sent to the State Agency.
 - c. Once evaluated, there is no requirement for a re-evaluation unless the facilities are changed to increase or decrease the provision of service to applicants/participants with disabilities as stated in the self-evaluation currently on file.
 - d. New WIC clinics will be evaluated as they are opened.
3. If a WIC clinic is not accessible to a person with a disability, a written Local Agency policy will be developed that describes how services will be provided to the person with a disability.
 - a. These alternate services may include, but are not limited to:
 - i. Service at other sites;
 - ii. Service in other accessible locations within the same WIC clinic; or
 - iii. Home visits.

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- b. In choosing among available methods, give priority to those methods that offer programs and activities to qualified people with disabilities in the most integrated setting appropriate to obtain the full benefits of the WIC Program.
- c. The policy should be flexible to cover all types of disabilities and allow reasonable accommodations, for example:
 - i. Provision of interpreters for applicants/participants who are deaf;
 - ii. Readers or braille for applicants/participants who are visually impaired;
 - iii. Other special learning equipment.

I. Closure or Relocation of a Clinic

In the event of a clinic permanently closing or a relocation, Attachment 2 Civil Rights Impact Assessment (CRIA) form must be completed and submitted to the State Agency Director prior to the closing or relocation. (See 6.11 Purchasing Regulations Section E.)

REFERENCES:

- 1. Federal Regulations: 7 CFR Part 15 b Section 504 of the Rehabilitation Act of 1973.FNS Instruction 113-1, dated 11/08/2005, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities
- 2. SFP 95-123, People with Disabilities
- 3. SFP 96-009, Use of the USDA's Nondiscrimination Statement
- 4. SFP 97-136, USDA's Nondiscrimination Statement
- 5. DR 4300-3, 1999 Equal Opportunity Public Notification Policy
- 6. FNS Memo, dated 05/24/2013, USDA Nondiscrimination Statement Update

ATTACHMENTS:

- 1. Local Agency 504 Evaluation
- 2. Civil Rights Impact Assessment