Civil Rights Compliance in The Emergency Food Assistance Program (TEFAP) and the Commodity Supplemental Food Program (CSFP)

Oklahoma Department of Human Services (DHS) Food Distribution Programs
What is TEFAP?

- The Emergency Food Assistance Program helps supplement the diets of low-income Americans, including elderly people, by providing them with emergency food and nutrition assistance at no cost through food pantries and soup kitchens.

- The USDA makes food commodities available to the States, which receive the food and supervise overall distribution of the food commodities to eligible recipient agencies.

- Eligible recipient agencies are public or private nonprofit organizations that provide food and nutrition assistance to the needy through the distribution of food for home use or the preparation of meals.
What is CSFP?

- The Commodity Supplemental Food Program works to improve the health of elderly people at least 60 years of age by supplementing their diets with nutritious USDA commodity foods.
- Under CSFP, the USDA purchases food and makes it available to the States, along with funds for administrative costs.
- The States then store the foods and distribute it to public and non-profit private local agencies.
Civil Rights are the non-political rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13th and 14th Amendments to the U.S. Constitution and by acts of Congress.
What is Discrimination?

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 classes.
What is a Protected Class?

- Any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order.

- Protected classes in TEFAP & CSFP are:
  - Race
  - Color
  - National Origin
  - Age
  - Sex, and
  - Disability
Civil Rights Legislation

- All programs receiving Federal funding must comply with Civil Rights
  - Title VI of the Civil Rights Act of 1964
  - The Age Discrimination Act of 1975
  - Title IX of the Education Amendments of 1972
  - USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations
  - Section 504 of the Rehabilitation Act of 1973
  - FNS Instruction 113-1
Civil Rights Legislation

- **Title VI-Civil Rights Act of 1964** states:

  No person in the United States shall be discriminated against on the grounds of race, color; or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity.

  - Example: Race/color: Treating or speaking to a child differently (using slang terms for example) or in a friendlier manner because of race or color.
Civil Rights Legislation

- The Age Discrimination Act of 1975 states:

  No person in the United States, shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.
Civil Rights Legislation

- **Title IX of the Education Amendments of 1972** states:

  *No person in the United States shall, on the basis of sex (gender), be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.*

- Example: You should not offer smaller portions to women compared to men. The same size portion should be offered to each, regardless of sex (gender).
Civil Rights Legislation

- **USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations:**
  
  The purpose of this part is to set forth USDA policy regarding equal opportunity for religious organizations to participate in USDA assistance programs for which other private organizations are eligible.
Civil Rights Legislation

- **Section 504 of the Rehabilitation Act of 1973**

- Title II and Title III of the *Americans with Disabilities Act* of 1990 extended the requirements to all services, programs and activities of State and local governments and prohibits discrimination based on disability in other public services.
Civil Rights Legislation

- **FNS Instruction 113-1:**
  The purpose of this Instruction is to establish and convey policy and provide guidance and direction to the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) and its recipients and customers, and ensure compliance with and enforcement of the prohibition against discrimination in all FNS nutrition programs and activities, whether Federally funded in whole or not.

Goals of Civil Rights Legislation

- Equal and consistent treatment for all eligible applicants and participants
- Knowledge of rights and responsibilities
- Elimination of illegal barriers that prevent or deter people from receiving food
- Dignity and respect for all
The 9 required Civil Rights Training areas are:

1) Collection and Use of Racial/Ethnic Data
2) Effective Public Notification Systems
3) Complaint Procedures
4) Compliance Review Techniques
5) Resolution of Noncompliance
6) Requirements for Reasonable Accommodations of Persons with Disabilities
7) Requirements for Language Assistance
8) Conflict Resolution
9) Customer Service
Training Expectations

- Recipient agencies are responsible for training annually.
- First line workers (including volunteers) and all levels of supervisors must receive full civil rights training.
- Recipient agencies are required to document the training and maintain documentation for three years, including the current year.
- Volunteers who do not handle personal information or infrequently interact with program participants must receive, at a minimum, limited civil rights training.
- Volunteers who do not interact in any way with program applicants and participants, and who do not handle personal information, do not need civil rights training.
Training Expectations

At the end of the Civil Rights training, staff and volunteers should:

• Be able to identify a civil rights complaint, if received
• Know what steps to take if they receive a complaint
• Understand that it is a basic right of that individual to file a complaint
Required Documentation of Civil Rights Training

- Name of the participant and date of the training on a Certificate of Training
- Keep your Certificates of Training for 3 years, plus the current year
- If the training is provided by a designated trainer, please include name of training instructor
- Names of all the participants attending the training
  - Use a simple sign-in sheet for all participants to sign at the **END** of training
Civil Rights Training Tips

- Be sensitive, civil rights can be very personal and people approach it from different angles
- Cover the basics
- Expect issues and questions and be prepared to address them
- Answer questions directly and clearly
- Recognize and value differences
- If you don’t know the answer DO NOT make something up. Agree to get the answer and then follow-up.
- Contact DHS Commodity Distribution Unit for additional assistance
Non-Discrimination Statement

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual’s income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/compaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email @program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.
Non-Discrimination Statement

- Include the non-discrimination statement on **ALL** materials that mention USDA programs; including websites, photos & other graphics that are used in publications.

- If the material is too small to permit the full non-discrimination statement, the material will at a minimum include, “USDA is an equal opportunity provider and employer.” This language must be verbatim. Please note that the usage of the short statement is an “exception,” not the rule.

- Also, regardless of the size, at a minimum, the full statement must be used on vital documents such as: (1) Application form; (2) Notification of Eligibility or Ineligibility; (3) Expiration of Certification Notification; and (4) Discontinuance Notification.

- Print size for the non-discrimination statement shall be no smaller than the text in the material.
Public Notification

- All recipient agencies are required to send out public notifications of their program to potentially eligible persons once every two years.
- Include the required non-discrimination statement on ALL materials that mention USDA programs; including websites, agency publications, posters and informational materials provided to the public.
- Let applications and participants at your site know the following:
  - Program availability,
  - Program rights and responsibilities,
  - The agency’s policy of non-discrimination, and
  - The procedure for filing a complaint.
Public Notification

Methods of Public Notification

• Prominently display the USDA non-discrimination “And Justice For All” poster

• Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs; including information pertaining to eligibility, benefits, and services, the location of local facilities or services delivery points and hours of service

• Provide appropriate information, including web-based information, in alternative formats for persons with disabilities
“And Justice For All” poster

- Notifies participants of Civil Rights
- Prominently display the poster where it is visible to all program participants
- Post in service area
“And Justice For all Poster” Source


or contact

Commodity Distribution Unit, DHS
TEFAP & CSFP Programs at (405)521-3581
Collecting & Reporting Participant Data for CSFP

- Recipient agencies are required to obtain data by race and ethnic category on applicants and participants in the CSFP programs.
- Self-identification or self-reporting is the preferred method of obtaining data
  - Program applicants may not be required to furnish ethnicity and race
- Visual observation shall be used when the applicant does not self-identify
  - The applicant should be informed that a visual identification of his/her race and ethnicity will be made and recorded
  - Data collector may not second guess or change or challenge a self-declaration unless such declarations are patently false
Collecting & Reporting Participant Data for CSFP

A two question format must be used for racial and ethnic categories for CSFP programs:

- **Ethnicity**: Is to be asked first
  - Hispanic or Latino
  - Not Hispanic or Latino

- **Race** (instructions should specify “mark one or more”)
  - American Indian or Alaskan Native
  - Asian
  - Black or African American
  - Native Hawaiian or other Pacific Islander
  - White or Caucasian
Complaints

Complaints may be based on the following:

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

Complaints may be written or verbal

- Complaints may be made by phone, letter, email, fax or any other form of communication
- If receiving a verbal complaint, that staff should write down the information for the complaint. *Listen politely!*
Complaints

- May be anonymous
  - Anonymous complaints should be handled as any other complaint
- May be related to any area of Food Distribution operations
  - Program administration, food service, employment, etc.
- Complaints must be filed within 180 days from the alleged date of discrimination (timeframes must be adhered to)
How to File a Complaint

- Send the complaint letter to:
  USDA
  Director, Office of Adjudication
  1400 Independence Avenue, SW
  Washington, DC 20250-9410

- And the DHS Commodity Distribution Unit:
  Commodity Distribution Unit
  Attn: Civil Rights Complaint
  PO Box 25352
  Oklahoma City, OK 73125-0352
Complaint Tips

- Never discourage groups or individuals from filing a complaint or from telling about a potentially discriminatory situation
- Provide forms for written complaints
- Take detailed notes of verbal complaints
Assurances

To qualify for Federal financial assistance, written assurance that the program will be operated in a nondiscriminatory manner must be included in all agreements between agencies.
The Oklahoma CSFP and TEFAP Programs are evaluated by USDA Food and Nutrition Services (FNS) regularly through the Management Evaluation Process. In turn, the State agency reviews its local agencies, and the local agencies review their sub recipients. These reviews may be conducted jointly or independently by Civil Rights and program staff. The review examines the activities of the State and local agencies, or other sub recipients to determine that FNS programs and activities are being administered with civil rights requirements. The office performing the review must advise the reviewed entity, in writing, if any review findings and recommendations. A written report is provided by the reviewer to the reviewed entity, and requires a corrective action plan that outlines any actions taken to resolve issues identified as findings during the review. The State agency or local office must follow up with the reviewed entity to ensure the issues have been corrected.
Compliance Review

- The purpose of a compliance review is to determine if the applicant or recipient agency of Federal financial assistance is in compliance with Civil Rights requirements.

- Reviews can be completed:
  - Pre-award
  - Post-award
  - Special
Routine Compliance Reviews

- This is a desk or on-site civil rights review conducted after an organization has been authorized to receive Federal financial assistance to ensure:
  - Prominent display “And Justice for All” poster
  - Providing annual Civil Rights training for staff/volunteers
  - Procedure in place to handle Civil Rights complaints
  - Non-discrimination statement on all printed materials and websites
  - Providing outreach materials to reach all eligible populations, once every two years
  - Meeting the requirement for persons with disabilities, reasonable accommodations, and limited English proficiency (LEP).
Routine Compliance Review

Questions

 Is USDA’s “And Justice For All” poster prominently displayed where it can be seen by applicants, participants and visitors?

 Have Civil Rights training and complaint procedures been provided to persons dispensing commodities?

 Do potentially eligible persons have an equal opportunity to participate?

 Does the agency publicize that it provides services to all persons without regard to race, color, national origin, age, sex or disability?
Routine Compliance Review

Questions

- Is the non-discrimination statement included on all materials that describe TEFAP & CSFP?
- Has the agency established a public notification system to inform the underprivileged, minorities, and grassroots organizations of TEFAP, their food distribution location and times, and civil rights complaint procedures?
- Is the facility accessible to the disabled?
- Is assistance available for person that have limited English proficiency?
- Has the organization received any civil rights complaints? If yes, were they handled properly? Are the organization’s procedures adequate?
Resolution of Noncompliance

Definition of “Noncompliance”
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, local agency, or other subrecipient.
Resolution of Noncompliance

- Steps must be taken immediately to obtain voluntary compliance

- Effective date of the finding of noncompliance is the date of notice to the State agency, local agency, or other subrecipient
What is Limited English Proficiency (LEP)?

Definition of LEP Persons:
Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

- All organizations receiving Federal financial assistance have a responsibility to take reasonable steps to ensure “meaningful” access to their programs and activities by persons with LEP.
Limited English Proficiency (LEP) “Reasonable Steps” are contingent upon:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service provided by the program to people’s lives
- The resources available to the recipient and costs. A shortage of resources does not eliminate the requirement for an agency to take reasonable steps
Limited English Proficiency (LEP)

Potential Cost Reduction Solutions:

- Using technological advances (i.e., translation devices on your computer or smart phone)
- Sharing of language assistance materials and services among and between recipients, advocacy groups and social service agencies (i.e. Department of Human Services)
- Where appropriate, training bi-lingual staff to act as interpreters and translators, telephonic and video conferencing interpretation services, or the formalized use of qualified community volunteers
- Standardizing documents to reduce translation needs

Paid interpreters, bilingual staff, and/or the use of a language line is the preferred method for meeting LEP requirements.
Limited English Proficiency (LEP)

- Children who are minors should not be used as interpreters
- Volunteers may be used, but make sure they understand confidentiality
- Prototype applications in other languages: http://www.fns.usda.gov/cnd/FRP/frp.process.htm
- See www.lep.gov for more information
Limited English Proficiency (LEP)

Agencies that fail to provide services to LEP persons and applicants, or deny them access to TEFAP & CSFP may be discriminating on the basis of National Origin in violation of Title VI.
Reasonable Accommodations

- Ensure that people with disabilities can get into your agency from the parking lot, entrances, hall, elevators, restrooms, as well as allowing service animals.

- Arrange ways for people to get services. For example if your program is in the basement and you do not have an elevator, staff/volunteers should be available on the main floor.

- FedRelay Telecommunications Services to allow individuals who are deaf, hard of hearing, and/or have speech disabilities. [www.gsa.gov/fedrelay](http://www.gsa.gov/fedrelay)
Customer Service: Making a Difference

- Treat all people with dignity and respect
- Answer questions in a voice that is non-threatening
- Clearly explain to everyone the rules as well as their rights and responsibilities
- Find and use tools and techniques to improve customer service.
- Recognize that participants have varied needs and (sometimes) few resources
Customer Service: Making A Difference

- Notice when a person feels they have been treated in a rude manner
- Develop good listening skills
- Learn to put yourself in their place when necessary
- Learn to deal with a dissatisfied customer
- Improve customer satisfaction
- Ask yourself, “Am I treating this person in the same manner I treat others?”
Conflict Resolution

Key Points

• Typically customers who are behaving in a difficult manner usually have not had their expectations met or do not fully understand the role of the worker.

• Often, the customer is focused on getting immediate assistance with solving a problem and does not feel the worker is helping.

• Generally, people do not want to be difficult or argumentative with a caring individual. The customer may not be aware of how their negative behavior is affecting others.
Conflict Resolution

- Communication components to defusing a difficult situation
  - Words
  - Tone of Voice
  - Body Language

- A combination of all three of these components when having face-to-face interactions with our customers. Each component “says” something to our customer.
Conflict Resolution

Tips for working with people during difficult situations:
• Remain calm
• State that you want to help and ask how you can be of assistance.
• Using information provided, determine what the issue is.
• Take time to try to understand the person’s point of view. Listen for details about the concern, situation, or request. Repeat the concern or request to make sure you understand the person’s expectations.
• When appropriate, apologize for the situation.
• Offer solutions. Take responsibility for finding a solution, or for putting a solution into action.
• Don’t take the situation personally.
• Follow up. Personally make sure that the customer has been satisfied; and provide feedback.
Conflict Resolution

- If you have tried to assist the person by providing the best customer service you can, and the person remains argumentative or outright abusive then do not allow yourself to be abused, and do not argue back. Keep your own sense of self-confidence, but still remain helpful.

- Anytime you feel that someone is truly physically threatening, get away from the person and call the Police.
Additional Resources

- www.fns.usda.gov/cr/
- www.ascr.usda.gov/
- www.ascr.usda.gov/complaint_filing_cust.html#processing
- www.lep.gov
- www.fns.usda.gov/cnd/FRP/frp.process.htm
The End

- Questions or concerns contact:
  - Nancy Ebahotubbi, Programs Administrator, Commodity Distribution Unit, (405) 521-3581
  - Taryn Wade, State Reviewer, Commodity Distribution Unit, (405) 522-3144
  - USDA Food and Nutrition Service, Southwest Region, Regional Civil Rights Director, (214) 290-9837