

# Section 6000

# Civil Rights

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## Section 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 CSFP by complying with the civil rights and nondiscrimination requirements of USDA. (7 CFR §247.37)

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 (including gender identity and sexual orientation)
- 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, 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.

## **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 persons of the CSFP availability, CSFP rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. CEs must make CSFP information available to the public upon request. CEs also must be able to provide informational materials related to the CSFP 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 CSFP. Specifically, when human likenesses are used in such materials, reasonable efforts must be made to depict an ethnic and racial balance.

### **6111 ...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 at <https://www.fns.usda.gov/cr/and-justice-all-posters>.

## 6112 Nondiscrimination Statement

The CE and site must provide the following nondiscrimination statement and complaint-filing procedures in all applications; and on all CSFP 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 (including gender identity and sexual orientation), 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/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.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](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

In Spanish, the nondiscrimination and compliant 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 (incluyendo identidad de género y orientación sexual), 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.fns.usda.gov/sites/default/files/resource-files/usda-program-discrimination-complaint-form-spanish.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](mailto:program.intake@usda.gov)

Esta entidad es un proveedor que brinda igualdad de oportunidades.

The nondiscrimination statement **must be printed in its entirety** on all CSFP documents that are intended for the public unless the document fits one of the exceptions below.

Exceptions to the requirements for the nondiscrimination statement follow:

- Sometimes, material is too small to permit the full nondiscrimination statement. In this case, the material must include, in 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 the CSFP when the size or configuration make it impractical.
- When advertising the CSFP through radio or television announcements, the entire nondiscrimination statement does not have to be read. Rather, a statement such as “The CSFP is an equal opportunity provider” is sufficient.
- The entire nondiscrimination statement does not have to be included on every page of a CE’s CSFP 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. The CSFP regulations in 7 CFR Part 247 defines the purpose of the CSFP to provide benefits to low-income seniors 60 years of age and older. (7 CFR §247.9) Therefore, any reference to age in the nondiscrimination statement as it relates to the CSFP is subject to these qualifications.

## **6120 Data Collection and Maintenance**

CEs must determine the number of actual beneficiaries by ethnic and racial category from participants applying for and/or participating in the CSFP on an annual basis. CEs must collect data using *Participant Application* (Form H1504) **or similar application form** for each participant at the time of certification or recertification.

Participants must be given the opportunity to self-identify ethnicity and race and be informed that their responses to questions about their ethnicity and race will not affect consideration of their application. If the participant chooses not to self-identify ethnicity and race, the CE must record the participant's ethnicity and race based on visual observation. Participants of multiple racial categories must be given the option to first indicate ethnicity followed by race. Adults of multiple racial categories may be categorized in more than one racial group.

Racial and ethnic categories include the following:

### **Ethnicity**

- (1) *Hispanic or Latino*. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”
- (2) *Not Hispanic or Latino*.

### **Race**

- (1) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- (2) *Asian*. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- (3) *Black or African American*. A person having origins in any of the black racial group of Africa. Terms such as “Haitian” can be used in addition to “Black or African American.”
- (4) *Native Hawaiian or Other Pacific Islander*. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- (5) *White*. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

After collecting this data, a CE must take each of the following steps:

- Annually by July 1, report to TDA the data for the month of April electronically on FNS-191, *Racial/Ethnic Group Participation, Commodity Supplemental Food Program*.<sup>1</sup>
- Maintain the original data by individual site with documentation of the sources and methods by which it was obtained
- Maintain the data and relevant documentation according to the record-keeping requirements described in Item 4900, *Program Documentation*
- Establish safeguards to protect the confidentiality of the data

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<sup>1</sup> Contact the Program Specialist at [CommodityOperations@TexasAgriculture.gov](mailto:CommodityOperations@TexasAgriculture.gov) or 877-TEX-MEAL (877-839-6325) to obtain an FNS-191, *Racial/Ethnic Group Participation, Commodity Supplemental Food Program*.

## 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 CSFP. 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 CSFP;
- The frequency with which LEP individuals come in contact with the CSFP;
- The nature and importance of the CSFP 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 Compliance Reviews

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

TDA will determine whether a CE and its sites comply with civil rights requirements before it approves the 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.



## **6200 Section 504 of the Rehabilitation Act of 1973**

### **6210 Program Accessibility**

The CSFP, 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 CSFP. CEs can make programs accessible to persons with disabilities by:

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

CEs should develop transition plans to ensure CSFP 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 the person 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 your USDA Foods Specialist for additional information.)

## 6211 Accessibility Examples

Addressing inaccessibility need not be difficult. Below are examples of ways that CEs or sites can address accessibility issues.

- At a site that provides USDA Foods in a bag or package: A volunteer brings a food package to a participant with a disability.
  1. *The site is inaccessible to wheelchairs and a proxy is unable to pick up the participant's food package. A volunteer brings the participant's food package to the participant's car.*
  2. *The site is inaccessible to legally blind persons and a proxy is unable to pick up the food package. A volunteer brings the participant's package to the participant in an accessible area, such as at the site's door or on the sidewalk near the site.*
- At a site that offers a shopping option for USDA Foods: The site provides a volunteer to help a participant with a disability.
  1. *A volunteer accompanies a legally blind participant throughout the site, verbally naming the available foods.*
  2. *A site is inaccessible to wheelchairs. A volunteer with a shopping list meets a participant in a wheelchair accessible area. After the participant chooses the desired foods from the list, the volunteer "shops" for the chosen foods and brings them to the participant.*

## 6220 Public Notification

CEs must have a public notification system to inform applicants, participants and potential participants of the CSFP availability, CSFP 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. **CSFP 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 CSFP contain the nondiscrimination statement located in Item 6112, *Nondiscrimination Statement*.

## **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 CSFP.

## **6240 Nondiscrimination Statement (Assurances)**

The statement of nondiscrimination is contained in the *Agreement Between Contracting Entity and Texas Department of Agriculture* (Form H1502).

## **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. The CE may designate an existing employee to perform this function. (7 CFR §15b.6)

## **6260 Complaint and Grievance Procedures**

If a CE employs 15 or more people, the CE must maintain procedures to process complaints and grievances. Procedures that are required by a program other than the CSFP 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](http://www.squaremeals.org). Choose I Need To . . . then File a Complaint.

## **6270 Self-Evaluation of Services**

CEs must evaluate the quality and availability of its 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 the results of a self-evaluation study in accordance with CSFP record-keeping requirements. Refer to Item 4900, *Program Documentation*, for additional guidance.

## **6300 Americans with Disabilities Act**

### **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. 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

### **6320 Services**

When evaluating the services that a CE and its sites offer, the CE should consider the following questions:

- Can a person with disabilities get to the 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:

- 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; and
- 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 business. CEs faced with such a request are encouraged to contact TDA for further assistance.

## 6400 Sites Located at Religious Organizations

Federal civil rights laws address explicitly religious activities as part of CSFP. See Item 4820, *Sites Located at Religious Organizations*.

## 6500 Complaints

CEs and 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. If a civil rights complaint is filed with a CE or sites, the CE must forward it to TDA immediately.<sup>2</sup> CEs are also required to provide the complainants with contact information for USDA for filing a civil rights complaint (see Item 6112, *Nondiscrimination Statement*) and explain that a complaint of violation of their civil rights may be made directly to USDA.

The CE may incorporate the CSFP grievance procedures into existing organization-wide compliant procedures rather than develop standalone grievance procedures for the CSFP.

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<sup>2</sup> Email [CommodityOperations@TexasAgriculture.gov](mailto:CommodityOperations@TexasAgriculture.gov) or call 877-TEX-MEAL (877-839-6325). Alternatively, the CE or site may call 1-877-TEX-MEAL (877-839-6325) for submittal information.

## 6561 Right to File

Any person may file a complaint within 180 days of the alleged discriminatory action. The complainant and the CE (or site, if the complaint is filed against the site) are encouraged to resolve the issue 1) at the lowest possible level and 2) as expeditiously as possible.

## 6562 Anonymous Complaints

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

## 6563 Verbal Complaints

Complaints may be made verbally, and the person that receives the complaint must write the elements of the complaint. Every effort should be made to collect the following information:

- 1) Name, address, and phone number, or other ways to contact the complainant
- 2) The specific name and location of the CE or site
- 3) The nature of the incident or action that led to the discrimination complaint
- 4) The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability, or sex)
- 5) The name, title, phone number, business address, and personal address of anyone that might have knowledge about the alleged discrimination
- 6) The date(s) that the alleged discrimination occurred; or if the discrimination is ongoing, its duration

## 6164 Complaint Form.

The [USDA Program Discrimination Complaint Form](http://www.ascr.usda.gov/complaint_filing_cust.html), (AD-3027), can be found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html).

## 6600 Training

A CE's administrative and site personnel must be trained in all aspects of civil rights before assuming any CSFP duty and every year thereafter.

Volunteers who regularly interact with CSFP applicants and participants or determine eligibility must receive full civil rights training on an annual basis. Volunteers who handle 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 with CSFP applicants and participants must receive, at a minimum, limited civil rights training (that is, 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 CSFP applicants and participants or handle personal information.

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

To meet the civil rights training requirements, CEs may use the training developed by TDA located on the TDA website at <http://www.squaremeals.org>, select:

- F&N Resources,
- Training,
- Online Education and Self Study,
- Civil Rights Courses.