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



OKLAHOMA Human Services

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.

What are Civil Rights?

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 <u>protected classes</u>.

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.

✤ The 6 Protected classes in TEFAP & CSFP are:

- Race
- Color
- National Origin
- Age
- Sex (including gender identity and sexual orientation), and
- Disability

- 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 * <u>Title VI-Civil Rights Act of 1964 states:</u>

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.

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.

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).

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.

Section 504 of the Rehabilitation Act of 1973

Title II and Title III of the <u>Americans with</u> <u>Disabilities Act</u> 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.

✤ 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.

http://www.fns.usda.gov/cr/Documents/113-1.pdf

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 <u>annually</u>
- Front 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 *plus* the current fiscal 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, are not required to receive 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 Food Distribution Programs Unit for additional assistance

Non-Discrimination Statement

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

This institution is an equal opportunity provider.

Declaracion de No Discriminación

- 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 <u>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:
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- •
- correo:
- U.S. Department of Agriculture
- Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW
- Washington, D.C. 20250-9410; or
- fax:
- (833) 256-1665 o (202) 690-7442; o
- correo electrónico:
- program.intake@usda.gov
- •
- Esta institución es un proveedor que ofrece igualdad de oportunidades.

Non-Discrimination Statement

- Include the non-discrimination statement on <u>ALL</u> materials that mention USDA programs; including websites, photos & other graphics that are used in publications. Nutrition Education information <u>does not require</u> the statement.
- If the material is too small to permit the full non-discrimination statement, the material will, at a minimum include, "This institution is an equal opportunity provider." 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) Applications; (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 other material.

Public Notification

- All recipient agencies are required to send out public notifications about 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 applicants 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 & services, the location of local facilities or services, delivery points & 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 Posted in point of service area (outside if the site is using a drive-thru model of distribution)



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Civil Flights (ASCF) about the n

"And Justice For all Poster" Source

<u>http://www.fns.usda.gov/cr/justice/htm</u>

or contact

Food Distribution Unit, DHS TEFAP & CSFP Programs at (405)521-3581

Written Notice of Beneficiary Rights -TEFAP

TEFAP Pantries operated by places of worship or by religious-affiliated organizations are required to post this Written Notice of Beneficiary Rights in a location visible to the applicants. It is ideal to post the Written Notice of Beneficiary Rights in the same location as the "And Justice for All" poster.

The Emergency Food Assistance Program (TEFAP) – Written Notice of Beneficiary Rights

Name of Organization:

Contact Information for Program Staff: Name

Phone Number Email Address

Because TEFAP is supported in whole or in part by financial assistance from the Federal Government, we are required to let you know that—

- We may not discriminate against you on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;
- We may not require you to attend or participate in any explicitly religious activities that are offered by us, and any participation by you in these activities must be purely voluntary;
- We must separate in time or location any privately funded explicitly religious activities from activities supported with USDA direct assistance;
- If you object to the religious character of our organization, we must make reasonable efforts to identify and refer you to an alternate provider to which you have no objection. We cannot guarantee, however, that in every instance, an alternate provider will be available; and
 You may report violations of these protections (including denials of services or benefits) by an organization to the State agency (http://www.fns.usda.gov/fdd/food-distribution-contacts). The State agency will respond to the complaint and report the alleged violations to their respective USDA FNS Regional Office (http://www.fns.usda.gov/fns-regional-offices).

We must provide you with this written notice before you enroll in TEFAP or receive services from TEFAP, as required by 7 CFR part 16.

Alternate Service Location(s) or State Agency Contact Information:

Name of Organization and Contact Person: Food Distribution Programs OKDHS Phone Number 405-521-3581 Email Address: sarah.bouse@okdhs.org

Written Notice of Beneficiary Rights -CSFP

Specific instruction regarding the Written Notice of Beneficiary Rights as it relates to CSFP from Policy Memo (June 2016):

"For religious organizations operating CSFP, individual written notice of beneficiary protections provided under 7 CFR Part 16, including the right to be referred to another organization, **must** be given to all applicants at the time that they apply for CSFP benefits."

Please note CSFP that are operated by non-religious organizations do **not** have to issue this notice to applications.

Commodity Supplemental Food Program (CSFP) – Written Notice of Beneficiary Rights

Name of Organization:

Contact Information for Program Staff (name, phone number, and email address, if appropriate):

Because this program is supported in whole or in part by financial assistance from the Federal Government, we are required to let you know that—

- We may not discriminate against you on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;
- We may not require you to attend or participate in any explicitly religious activities that are offered by us, and any participation by you in these activities must be purely voluntary;
- We must separate in time or location any privately funded explicitly religious activities from activities supported with USDA direct assistance;
 - If you object to the religious character of our organization, we must make reasonable efforts to identify and refer you to an alternate provider to which you have no objection. We cannot guarantee, however, that in every instance, an alternate provider will be available; and
 - You may report violations of these protections (including denials of services or benefits) by an organization to the State agency
 - (<u>http://www.fns.usda.gov/fdd/food-distribution-contacts</u>). The State agency will respond to the complaint and report the alleged violations to their respective USDA FNS Regional Office (<u>http://www.fns.usda.gov/fns-regional-offices</u>).

We must provide you with this written notice before you enroll in our program or receive services from the program, as required by 7 CFR part 16.

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 (including gender identity and sexual orientation)
- 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, volunteers, employment, etc.

Complaints must be filed within 180 days from the alleged date of discrimination (time frames must be adhered to) unless age discrimination then 30 days

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 Food Distribution Programs Unit: Food Distribution Programs 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 reporting 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.

Compliance Reviews

- The Oklahoma CSFP and TEFAP Programs are evaluated by USDA Food and Nutrition Services (FNS) regularly through the Management Evaluation (ME) Process. In turn, the State agency reviews its local agencies, and the local agencies review their sub-recipient agencies.
- 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, of 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 all eligible populations at least 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 (including gender identity or sexual orientation), 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 persons 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 sub-recipient agency. 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)? <u>Definition of LEP Persons</u>:

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 the Language Line are the preferred methods 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.ht

See <u>www.lep.gov</u> 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 <u>National Origin</u> in violation of Title VI.

Please do not forget that the Language Line is available to CSFP and TEFAP partner agencies.

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 a 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. <u>www.gsa.gov/fedrelay</u>

Customer Service: Making a Difference

Treat all people with dignity and respect

- Answer questions in a voice that is nonthreatening
- 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 shoes 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?"

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.

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.

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 the 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.
- Do not take the situation personally.
- Follow up. Personally make sure that the customer has been satisfied and provide feedback.

- ✤ 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

*Resources:

- www.fns.usda.gov/cr/
- www.ascr/usda.gov/
- www.ascr.usda.gov/complaint_filing_cust.html#processing
- www.fns.usda.gov/cr/Documents/113-1.pdf
- www.lep.gov
- www.fns.usda.gov/cnd/FRP/frp.process.htmhttps://www.u sda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf

The End

Questions or concerns? Please contact:

- Gina Kazerooni, Programs Administrator, Food Distribution Programs Unit, (405) 521-3581, or gina.kazerooni@okdhs.org
- Sarah Bouse, Programs Field Representative/State Reviewer, Food Distribution Programs Unit, (405) 521-3581 or sarah.bouse@okdhs.org
- USDA Food and Nutrition Service, Southwest Region, Regional Civil Rights Director, (214) 290-9837