

Chapter 4 Civil Rights

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The purpose of this chapter is to describe Civil Rights policy and how the policy must be implemented by Local WIC Programs, including local agency responsibilities for data collection, staff training, and handling complaints of alleged discrimination.

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Attachments:

Attachment 1. USDA Program Discrimination Complaint Form

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Nondiscrimination Policy

Based on Title VI of the Civil Rights Act of 1964 and related statutes including the Americans with Disabilities Act, the United States Department of Agriculture (USDA) prohibits discrimination on the bases of race, color, religion, national origin, marital status, sexual orientation, familial status, disability, limited English proficiency, or because all or a part of an individual's income is derived from a public assistance program. Not all bases apply to all programs. Reprisal is prohibited based on prior civil rights activity.

Local WIC agencies must assure that anyone who applies for or participates in the WIC Program will not experience discrimination on the basis of the protected classes.

■ **Sex And Age Discrimination**

Section 17 of the Child Nutrition Act of 1966 defines the purpose of the WIC Program as providing benefits specifically to pregnant, breastfeeding, and postpartum women, and infants and children to 5 years of age. Therefore, any reference to sex and age in the non-discrimination policy as it relates to the WIC Program is subject to these qualifications.

■ **Limited English Proficiency (LEP)**

Failure to provide services to applicants and participants with Limited English Proficiency (LEP), or to deny them access to WIC, may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations.

Examples of practices that may violate the Title VI assurance of meaningful access for LEP clients are:

- ▶ *failing to inform LEP persons of the right to receive free interpreter services and/or requiring LEP persons to provide their own interpreter;*
- ▶ *subjecting LEP persons to unreasonable delays in the delivery of services;*
- ▶ *limiting participation in a program or activity on the basis of English language proficiency; and/or*
- ▶ *providing services to LEP persons that are more limited in scope or lower in quality than those provided to other persons.*

Where a significant number or proportion of the population eligible to be served needs service or information in a language other than English to be informed of or to participate in the Program, the local agency shall take reasonable steps to provide information in appropriate language to these persons.

Local Agency staff, at the point of first contact with an individual, must determine whether that person is LEP, must determine their primary language read and spoken, and must procure the appropriate language assistance services. Adherence to this process is documented on the Family Demographic screen by selecting the primary language read and spoken and selecting the interpreter box as appropriate. It is necessary to document the reasonable steps taken to assure LEP applicants/participants receive meaningful access.

- **Oral Language Assistance.** Local WIC agencies have a number of options for providing oral language assistance. Which option to use will depend on a variety of factors including the frequency of need and size of the population(s) being served. Oral language assistance options include:
 - hiring bilingual staff for patient and participant contact positions;
 - hiring staff interpreters;
 - contracting for interpreter services;
 - utilizing community volunteers; and
 - contracting with a telephone interpreter service.

- **Written Language Assistance.** The necessity to translate written documents may vary depending on several factors including the size of the population(s) being served and the size of the agency or provider. Even if written translations are not dictated by need, local agencies and providers must provide oral interpretation of written documents, if necessary, to ensure meaningful access for a LEP person.

- **Reasonable Accommodation Of Persons With Disabilities**
Local public health agencies are required to comply with the Americans with Disabilities Act 1990 (ADA). This act guarantees equal opportunity for individuals with disabilities with regards to employment, public services, public transportation, public accommodation, and telecommunications.

Public Notification

Local Agencies must inform potentially eligible persons, program applicants, and participants of program availability, program rights and responsibilities, the nondiscrimination policy, and the process for filing a complaint. The complaint process is addressed in Section 3.

■ Program Availability

Local Agencies are required to complete an annual media release regarding the availability of the WIC Program. Refer to Chapter 10 for more information about the requirements of the annual media release.

■ Program Rights And Responsibilities

Refer to Chapter 6 for requirements for informing applicants and participants about their program rights and responsibilities.

■ Nondiscrimination Policy

- **Display USDA's "And Justice For All" Poster.** The USDA "And Justice for All" poster must be on display where it may be read by those who receive WIC services. It may also be displayed in group or individual nutrition education areas. Posters can be ordered from the Nutrition Services Branch using the NSB requisition form.
- **Use The USDA Nondiscrimination Statement.** The statement noted below in italics must include exact language in all notifications and administrative forms that deal with program eligibility and certification. It must also be included in all locally printed publications, outreach materials, pamphlets, press releases, handouts, leaflets and brochures, television and radio announcements, and internet sites that describe the WIC Program.

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, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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

This institution is an equal opportunity provider.

- ▶ When space prohibits use of the full statement, the following statement must be included in print size no smaller than the text: *“This institution is an equal opportunity provider.”*
- ▶ A nondiscrimination statement is not required to be imprinted on items such as cups, buttons, magnets, and pens that identify the program, when the size or configuration makes it impractical. In addition, recognizing that radio and television public service announcements are generally short in duration, the nondiscrimination statement does not have to be read in its entirety. Rather the short “This institution is an equal opportunity provider” may be used to meet the nondiscrimination requirement.
- ▶ Nutrition education and breastfeeding promotion and support materials that strictly provide a nutrition message with no mention of the WIC Program are not required to contain the nondiscrimination statement.
- ▶ The current nondiscrimination statement is not required to be included on every page of a program’s website. At a minimum, the full nondiscrimination statement or a link to the statement in English and in Spanish must be included on the webpage displaying WIC program information.

Complaints of Discrimination

Any applicant or participant alleging discrimination under any of the protected classes identified in the USDA nondiscrimination statement (not all protected bases apply to all programs) has a right to file a complaint of discrimination within 180 days of the alleged discriminatory action. Complainants must be provided with guidance about how to file a complaint and/or assistance with completing and filing the complaint form. Local and State staff may not discourage or deny groups or individuals their right to file a complaint of discrimination. Only the USDA, Office of Adjudication, may determine whether a complaint applies to the WIC Program or may reject a complaint based on lack of merit.

■ Civil Rights Program Complaints Of Discrimination

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, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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Washington, D.C. 20250-9410

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.
This institution is an equal opportunity provider.

■ Content of Complaints

Every effort should be made to have the complainant provide the following information about the alleged discriminatory action:

- ▶ Complainant name, mailing address, email address, and telephone numbers.

- ▶ The name of the organization or office where the alleged discrimination occurred.
- ▶ Best way to reach the complainant; mail, phone, e-mail, or other.
- ▶ Indicate Yes or No to, “Do you have a representative (lawyer or other advocate) for this complaint?”, and if so, provide name, address, phone number and email address.
- ▶ The names of person(s) involved in the alleged discrimination (if known).
- ▶ The names, titles, and business addresses of persons who may have knowledge of the alleged discriminatory action.
- ▶ Name of the program to which complainant applied.
- ▶ The USDA Agency that conducts the program – which for our purposes would be Food and Nutrition Service.
- ▶ What happened?
- ▶ When the discrimination occurred. If it occurred more than once, list all dates.
- ▶ The basis or bases upon which the claim of discrimination is being made, meaning race, color, national origin, disability, age, sex or religion. Reprisal is prohibited based on prior civil rights activity.
- ▶ How the complainant would like to see the complaint resolved.
- ▶ Information on whether a complaint about the incident(s) has been filed with any other federal, state, or local agency or with a court and if so, what agency or court and when it was filed.
- ▶ The signature of the complainant and the date. The complainant has the ability to electronically sign the form.
- ▶ All WIC applicant/participant complaints of discrimination must be reported by the local agency WIC Director or designee within 24 hours of receipt to their RNC. Written follow-up must be submitted to the State WIC Director within 5 days by the WIC Director or designee by writing to:

Nutrition WIC Director
Nutrition Services Branch
1914 Mail Service Center
Raleigh, NC 27699-1914

■ **Civil Rights Compliance Reviews**

Civil Rights compliance will be conducted during a regular program monitoring review visit by the state WIC staff.

- ▶ It is an automatic deficiency if the agency has unreported discrimination complaint(s).

- ▶ The local agency CAP must state:
 - how the non-compliance occurred for each case listed,
 - how the non-compliance will be resolved, and
 - steps that will be taken to assure future compliance with Civil Rights discrimination monitoring requirement(s).

If the local agency can prove they completed the complaint process as required, the agency must submit this proof immediately to the NSB WIC State Director.

■ **Protection of Complainant**

An applicant's /participant's rights or privileges under the WIC Program may not be interfered with because they have made a complaint alleging discrimination. Staff must keep the identity of a complainant confidential except for the purposes of investigation, hearing, or judicial proceedings.

■ **Complaint Resolution**

OASCR, through the Office of Adjudication, will investigate and resolve complaints of discrimination in programs operated or assisted by USDA.

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Ethnicity And Race Data Collection

It is a federal requirement that federal programs collect data on ethnicity and race in a uniform and comparable manner. The collection and reporting of this data will help to assure that this program is administered in a nondiscriminatory manner.

■ Obtaining The Information

Local Agencies must ensure that ethnic and racial data is collected and documented for all individuals at the time of initial application for WIC Program services; but only after it has been explained and the applicant understands that the collection of this information is solely for the purpose of determining the State's compliance with Federal civil rights laws and that responding will not affect consideration of the program application, and may be protected by the Privacy Act. By providing this information, you will assist us in assuring that this program is administered in a nondiscriminatory manner.

- **Declared.** Self-identification by the applicant is the preferred method of obtaining ethnic and racial information. Only one ethnicity can be selected, but multiple racial categories may be selected.
- **Observed.** If an applicant declines to self-identify his/her ethnic and/or racial group, the applicant should be informed that a visual identification of his/her ethnicity and/or race will be made and recorded in the data system. Visual identification by a program staff member must then be used to determine the applicant's ethnic and/or racial category. When staff use visual identification, the identification of the ethnicity and one race is acceptable.

NOTE: There are a variety of ways to request racial and ethnic information. The following example offers one approach:

"We need to know your ethnicity and race. Your response will not affect how we consider your application. If you prefer not to provide this information, we will need to choose an ethnic and race category for you. Are you (is your child) of Hispanic or Latino ethnicity? What race or races are you (is your child)?"

■ Documenting The Information

Race/Ethnicity on each applicant must be documented on the Participant Demographics screen in the Crossroads system.

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Staff Training

It is a federal requirement that staff who interact with program applicants/participants and the supervisors of this staff participate in civil rights training on an annual basis and that this training include the required components outlined by the United States Department of Agriculture (USDA).

Local Agencies are responsible for assuring that Local Agency WIC Program personnel who interact with program applicants or participants, and persons who supervise these staff participate in civil rights training annually. Staff may participate in training provided annually by the Nutrition Services Branch or through another training which includes the required content (see below). Local Agencies are encouraged to include civil rights training as part of new employee orientation.

■ **Required Content of Civil Rights Training**

The content of the civil rights training should include at a minimum, the topics listed below.

- ▶ Collection and use of data (refer to Section 4)
- ▶ Effective Public notification systems (refer to Section 2)
- ▶ Complaint procedures
- ▶ Compliance review techniques (refer to Chapter 15)
- ▶ Resolution of noncompliance
- ▶ Requirements for reasonable accommodation of persons with disabilities
- ▶ Requirements for language assistance and conflict resolution (refer to Section 3)
- ▶ Customer Service

■ **Documentation Of Participation In Training**

Documentation of staff participation in annual civil rights training should be maintained on file for three years. The documentation should at a minimum include the date and names of persons trained and an outline or agenda of the topics covered in the training.

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AD-3027 (1/19/12)

OMB Control Number 0508-0002

UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**Office of the Assistant Secretary for Civil Rights USDA****Program Discrimination Complaint Form Instructions**

(The complaint form is below the instructions)

PURPOSE:

The purpose of this form is to assist you in filing a USDA program discrimination complaint. For help filling out the form, you may call any of the telephone numbers listed at the bottom of the complaint form. You are not required to use the complaint form. You may write a letter instead. If you write a letter it must contain all of the information requested in the form and be signed by you or your authorized representative. Incomplete information will delay the processing of your complaint. You may also send a complaint by FAX or e-mail. We must have a signed copy of your complaint, so if you send your complaint by e-mail, be sure to attach the signed copy to your email. Incomplete information or an unsigned form will delay the processing of your complaint.

FILING DEADLINE:

A program discrimination complaint must be filed not later than 180 days of the date you knew or should have known of the alleged discrimination, unless the time for filing is extended by USDA. Complaints sent by mail are considered filed on the date the complaint was signed, unless the date on the complaint letter differs by seven days or more from the postmark date, in which case the postmark date will be used as the filing date. Complaints sent by fax or email will be considered filed on the day the complaint is faxed or emailed. Complaints filed after the 180-day deadline must include a 'good cause' explanation for the delay. For example, you may have "good cause" if:

1. You could not reasonably have been expected to know of the discriminatory act within the 180-day period;
2. You were seriously ill or incapacitated;
3. The same complaint was filed with another Federal, state, or local agency and that agency failed to act on your complaint.

USDA POLICY:

Federal law and policy prohibits discrimination against you based on the following: race, color, national origin, religion, sex, disability, age, marital status, sexual orientation, family/parental status, income derived from a public assistance program, and political beliefs. (Not all bases apply to all programs).

PROPERTY ADDRESS:

If this complaint involves a farm or other real estate property that is not your current address, write in the address for that farm or real estate property. Otherwise, this part of the form can be left blank.

PLEASE READ IMPORTANT LEGAL INFORMATION BELOW CONSENT

This USDA Program Discrimination Complaint Form is provided in accordance with the Privacy Act of 1974, 5 U.S.C. §552a, and concerns the information requested in this form to which this Notice is attached. The United States Department of Agriculture's Office of the Assistant Secretary for Civil Rights (USDA) requests this information pursuant to 7 CFR Part 15. If the completed form is accepted as a complaint case, the information collected during the investigation will be used to process your program discrimination complaint. Disclosure is voluntary. However, failure to supply the requested information or to sign the form may result in dismissal of your complaint. If your complaint is dismissed you will be notified. The information you provide in this complaint may be disclosed to outside parties where USDA determines that disclosure is: 1) Relevant and necessary to the Department of Justice, the court or other tribunal, or the other party before such tribunal for purposes of litigation; 2) Necessary for enforcement proceedings against a program that USDA finds to have violated laws or regulations; 3) In response to a Congressional office if you have requested that the Congressional office inquire about your complaint or; 4) To the United States Civil Rights Commission in response to its request for information.

REPRISAL (RETALIATION) PROHIBITED:

No Agency, officer, employee, or agent of the USDA, including persons representing the USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or otherwise retaliate against anyone who has filed a complaint of alleged discrimination or who participates in any manner in an investigation or other proceeding raising claims of discrimination. bases identified and in the programs involved. Reprisal that is based on prior civil rights activity is prohibited. USDA will determine if it has jurisdiction under the law to process the complaint on the OMB Control Number 0508-0002

UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
Office of the Assistant Secretary for Civil Rights
Program Discrimination Complaint Form

First Name: _____ Middle Initial: _____ Last Name: _____

Mailing Address: _____

City: _____ State: _____ Zip code: _____

E-mail address (if you have one): _____

Telephone Number starting with area code: _____

Alternate Telephone Number starting with area code: _____

Best Time of the Day to Reach You _____

Best Way to Reach You, (check one): Mail ___ Phone ___ E-mail ___ Other: _____

Do you have a representative (lawyer or other advocate) for this complaint? Yes ___ No ___

If yes, please provide the following information about your representative:

First Name: _____ Last Name: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail: _____

1. Who do you believe discriminated against you? Use additional pages, if necessary.

Name(s) of person(s) involved in the alleged discrimination (if known):

Please name the program you applied for (if known/if applicable): _____

Please check (✓) the USDA Agency below that conducts the program or provides Federal financial assistance for the program (if known):

Farm Service Agency
 Rural Development
 Forest Service

Food and Nutrition Service
 Natural Resource Conservation Service
 Other: _____

2. What happened to you? Use additional pages, if necessary, and please include any supporting documents that would help show what happened.

3. When did the discrimination occur?

Date: _____
 Month Day Year

If the discrimination occurred more than once, please provide the other dates:

4. Where did the discrimination occur? Address of location where incident occurred:

 Number and street, PO Box, or RD Number

 City State Zip Code

5. It is a violation of the law to discriminate against you based on the following: race, color, national origin, religion, sex, disability, age, marital status, sexual orientation, family/parental status, income derived from a public assistance program, and political beliefs. (Not all bases apply to all programs) Reprisal is prohibited based on prior civil rights activity.

I believe I was discriminated against based on my:

6. Remedies: How would you like to see this complaint resolved?

7. Have you filed a complaint about the incident(s) with another federal, state, or local agency or with a court?

Yes: _____ No: _____

If yes, with what agency or court did you file? _____

When did you file? _____
Month Day Year

Signature: _____ Date: _____

Mail Completed Form To:

USDA

Office of the Assistant Secretary for Civil
Rights

1400 Independence Ave, SW,
Washington, D.C. 20250-9410

E-mail address:

program.intake@usda.gov

Telephone Numbers:

Toll-free: (866) 632-9992

Federal Relay Service: (800) 877- 8339

Fax: (202) 690-7442

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