



2/2011 from Suong's e-mail on 2/21

The USDA Departmental Policy staff is currently reviewing and updating the non-discrimination policy statement that includes the filing address, contact phone numbers and Federal Relay Service number. Until such time that the updated non-discrimination statement has been approved by USDA, the following information statement should be used:

**In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.**

**To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired 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.**

This statement is the most current information available at this time. The updated information shows the TTY number has been replaced by the Federal Relay Service. The (800) 845-6136 number is for Spanish speaking individuals. Please provide this updated information to the appropriate individuals.

# ANSWERS TO 2010 WIC CIVIL RIGHTS TRAINING

## PART I

### SITUATIONS

1. The WIC program wants to make some changes to breast feeding promotion and sets up a community advisory panel to help make suggestions. What are the civil rights implications?

**ANSWER: There should be an effort made to recruit and appoint panel members so there is diverse representation from throughout the community. This should help to provide a variety of viewpoints and help to insure that the messages that are developed are appropriate and meaningful to different communities.**

2. A WIC recipient insists that she will only deal with a female doctor, breast feeding consultant, or nutritionist because of religious reasons. Must you accommodate her request and would it be discrimination not to do so?

**ANSWER: Religion is not a protected class for WIC. While it would be nice to accommodate clients' preferences, it is also important to keep in mind that doing so might constitute employment discrimination against your staff. While employment discrimination is handled by the Equal Employment Opportunity Commission (EEOC), it is important to handle all decisions based on qualifications and program requirements. Some of our clients have prejudices, and it is important not to honor preferences based on prejudices.**

3. A WIC agency decides to provide computer based training on civil rights to its front line workers. Is this allowable? What are some other alternatives?

**ANSWER: Computer based training is one of many options allowed to conduct training for front-line workers. Formal presentations, satellite transmitted live presentation, discussions at staff meetings, and one on one reviews of civil rights materials are also possibilities. FNS requires annual training but does not dictate how it should be conducted. The important thing is to keep track of who receives the training and to have provisions for make-up sessions for anyone who misses training.**

4. Someone has a Puerto Rican mother and a Polish father and would like to code both "Hispanic or Latino" and "Not Hispanic or Latino." Is this allowed and why?

**ANSWER: The person must choose to code either "Hispanic or Latino" or "Not Hispanic or Latino" but may not code both. This was a political decision made by the Office of Management and Budget (OMB) that imposes data collection requirements on all government agencies. While the person may code several different races if applicable, he or she may only code one ethnicity.**

5. How would you go about ordering new non-discrimination posters? Should you wait until a review to provide new ones if old ones have been taken down or have been defaced? What information do local clinics have about ordering new posters?

**ANSWER: State agencies may order “And Justice for All...” non-discrimination posters by sending an e-mail to [Printshop.brsb@fns.usda.gov](mailto:Printshop.brsb@fns.usda.gov) . The FNS Printshop can print posters as needed, so there is no need to order huge supplies. In fact, any order over 1000 must be justified by contacting the regional FNS civil rights director with an explanation. Supply the information that is on the order form attached to these answers. Local clinics should be instructed to order posters through state agencies. Ideally, the explanation on poster ordering should be on the State’s WIC web site. The poster used by WIC is AD-475C. Posters should always be displayed and should be replaced as soon as an existing poster must be removed for any reason or has gone missing. It is inappropriate to wait until a review to provide posters, and the fact that a poster was not displayed should be cited as a deficiency and poster ordering procedures should be explained even though there is immediate corrective action.**

6. There are people living in your community who may be eligible for WIC, but they are not participating. What are some reasons why this might be happening? How could you find out for sure why they are not participating? What might be done to get at least some of these people to participate?

**ANSWER: People may not know about the program or may assume they are ineligible because someone in the household works. There may be confusion about eligibility requirements. People might have heard that the application process is cumbersome or that people at the clinic are rude and uncaring. They might think that the fact that they are not citizens makes them ineligible. There are many ways to conduct outreach. Contact with community groups might help to reveal if there are false rumors circulating that keep people away. Outreach could be done in different languages if there are large pockets of single language ethnic minorities who are not participating. Using radio, TV, flyers, and posters might help. Having a booth at community fairs and festivals and having doctors and hospitals distribute information might also help. The possibilities are endless. The same applies to breastfeeding promotion where sensitivity to cultural norms may be particularly important.**

7. Where does the USDA non-discrimination statement need to be included? What are the main differences between the long and short versions and when is one preferable as opposed to the other?

**ANSWER: All information materials and sources, including web sites, used by FNS, State agencies, local agencies, or other subrecipients to inform the public about FNs programs must contain a nondiscrimination statement. It is not required that the nondiscrimination statement be included on every page of the program information web site. At a minimum, the nondiscrimination statement or**

a link to it, must be included on the home page of the program information. The long statement may be printed in any font size while the short statement must be in a font size no smaller than the rest of the text. In addition, the long statement has information on protected classes and filing complaints and should be used in its entirety on anything that conveys information about program rights.

8. Do newspapers need to print the nondiscrimination statement in stories that they run about the WIC program? Why or why not?

**ANSWER: Newspapers do not need to include the nondiscrimination statement in stories that they write about the WIC program because they are not recipients of Federal financial assistance. If an agency sends in a press release or a public service announcement or pays for an ad, the nondiscrimination statement should be included, but the news media does not have to include it unless it is part of paid advertising.**

9. An applicant who is denied WIC benefits alleges discrimination and wants to file a complaint. You know that discrimination was not a factor in the decision. What should you do?

**ANSWER: You should provide information on how to file a complaint. You should never discourage anyone from filing a complaint if he or she believes discrimination has occurred.**

10. A WIC manager is very angry that the person in the previous situation filed a discrimination complaint and took up a lot of her time and made her look bad. She tells her co-workers to watch out for this "troublemaker." The next time the person visits, she encounters "attitude" from employees. What are the civil rights violations described here?

**ANSWER: This is an example of retaliation. Even if no discrimination was found based on the original complaint, retaliation against someone or his or her close associates or friends or family or anyone in the office that cooperated in the investigation is a serious matter and can result in a finding of discrimination.**

## Civil Rights Presentation 03/11/2011 Staff Meeting

Thomas Vilsack, USDA Secretary, said that “to realize the Department’s vision of a modern workforce working in a modern workplace, USDA must become a model of tolerance and inclusion. To this end, all employees will be held accountable for doing their part to ensure that all applicants, customers, and stakeholders are provided equal opportunities, programs, and services.”

Relevant regulations:

7 CFR 246.7 (j) Notification of participant rights and responsibilities

7 CFR 246.8 Nondiscrimination

7 CFR 246.325 Records and Reports, Civil Rights

Title VI of the Civil Rights Act of 1964

FNS Instruction 113-1

American with Disabilities Act (28 CFR Part 35, Public Law 101-336, Title II, Sub Title A

Civil Rights Restoration Act of 1987

### **“And Justice for All” poster and nondiscrimination statement**

- Must be posted in all WIC offices and satellite clinics.
- The USDA non-discrimination statement must be included on all WIC program materials that are produced for public notification. These include: outreach letters and program information brochures; newspaper, television or radio announcements, posters; internet websites; application forms or certification forms (R &R) signed by WIC participants
- Non-discrimination statement is not required for nutrition education or breastfeeding materials that strictly provide a nutrition message

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

<http://www.fns.usda.gov/cr/justice-translations/475C.pdf>

- Display the poster in prominent places such as waiting rooms or other locations frequented by WIC applicants and participants
- Protected classes: race, national origin, age, color, sex, disability
- LA are required to do outreach activities at least annually in order to inform eligible individuals, particularly minorities, of the availability of WIC program services.

#### Limited English Proficiency (LEP)

- SA shall take reasonable steps to provide these individuals with meaningful access to WIC program information and services, i.e. other languages as necessary



# **CIVIL RIGHTS TRAINING ALASKA WIC**

**June 2010**

**Part I**

**Juneau, AK 99801**



# WHY DO CIVIL RIGHTS REQUIREMENTS APPLY?

- WIC is a **Federally assisted program** – WIC benefits and a portion of administrative costs are funded by the Federal government.
- To receive Federal financial assistance, an agency needs to sign **assurances** promising to comply with Federal civil rights requirements.
- The State can impose additional requirements.



# WHAT ARE THE CIVIL RIGHTS REQUIREMENTS FOR WIC?

- Do not discriminate based on race, color, national origin, age, sex, or disability (**protected classes**).
- Conduct annual **training** for front line workers and supervisors.
- Conduct **public notification** which includes displaying the And Justice for All... poster and conducting outreach to under represented communities.



# WHAT ARE THE CIVIL RIGHTS REQUIREMENTS FOR WIC?

- Collect and report **data** on race and ethnicity.
- **Accommodate** people with disabilities.
- Provide other **language services** for people with limited English proficiency (LEP).
- **Cooperate** with Federal and State reviewers and investigators by answering questions honestly and providing requested documents.



# WHAT ARE THE CIVIL RIGHTS REQUIREMENTS FOR WIC?

- Understand **complaint procedures** and know where to refer people who want to file a civil rights complaint.
- Provide equal opportunity for **faith based and community based organizations** to participate as appropriate.
- Promptly **resolve noncompliance** issues.
- **Resolve conflicts** & provide good customer service.



# WHAT ARE THE SOURCES OF THESE REQUIREMENTS?

- Title VI – Civil Rights Act of 1964 – **Race, color, national origin**
- Title IX of the Education Amendments of 1972 - **Sex**
- Section 504 of the Rehabilitation Act of 1973 - **Disability**
- Americans with Disabilities Act – **Disability**
- Age Discrimination Act of 1975 – **Age**
- Civil Rights Restoration Act of 1987 – **Race, color & national origin**
- Program statutes and regulations – **race, color, national origin, sex, age, and disability**



# MORE SOURCES

- USDA regulations at 7 CFR 15 et seq.
- USDA regulations at 7 CFR 16 et. seq. (faith based)
- WIC regulations at 7 CFR 246
- FNS Handbook 113-1 (11/8/2005) including Appendix D
- Link to electronic Federal regulations page:  
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>



# SUBMIT COMMENTS!

- FNS Instruction 113-1 is in the process of being revised. Please submit comments on anything you would like to see changed, clarified, added, or deleted to FNS WIC staff or civil rights staff as soon as possible
- FNS Instruction 113-1 should be a primary reference for civil rights requirements, so help make sure it is a useful tool for you and your staff.



# WHAT IS DISCRIMINATION?

**Discrimination** is the act of illegally 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 perceived or actual protected bases.



# DISCRIMINATION TYPES

- **Disparate treatment** - intentional
- **Disparate impact** – intentional or unintentional – might be a policy or practice that impacts disproportionately on a group
- **Retaliation for prior civil rights activity**
  - applies to applicant/beneficiary and his or her family, known associates, and anyone who cooperated in a civil rights investigation including agency employees.



# DISCRIMINATION EXAMPLES

- Segregated seating in waiting areas or in accommodations such as washrooms.
- Differences in waiting times based on protected class.
- Facilities that are not accessible to people with disabilities including mobility, sight, hearing, and other conditions.
- Requiring a person with limited English proficiency to bring her own interpreter.



# DISCRIMINATION EXAMPLES

- Failing to advise a person with limited English proficiency that an interpreter will be provided by the Agency at no cost to the applicant or beneficiary.
- Treating people disrespectfully based on membership in a protected class.
- Locating an office in an area that is not accessible to people in certain minority groups due to lack of public transportation or other factors.



# DISCRIMINATION EXAMPLES

- Providing a different level of benefits based on membership in a protected class.
- Requesting extra verification or documentation from people based on membership in a protected class.



# SITUATION 1

The WIC program wants to make some changes to breast feeding promotion and sets up a community advisory panel to help make suggestions. What are the civil rights implications?





# NOT DISCRIMINATION

- Limiting benefits to children under age five is **not** age discrimination.
- Limiting certain benefits to pregnant and lactating women is **not** sex discrimination.

**WHY???**

Congress can decide to provide programs that further societal goals by benefitting certain groups of people.



# SITUATION 2

A WIC recipient insists that she will only deal with a female doctor, breast feeding consultant, or nutritionist because of religious reasons. Must you accommodate her request and would it be discrimination not to do so?





# TRAINING

- All who work with FNS funded programs must be trained.
- First line workers (including volunteers) and supervisors must receive annual training.
- Flexibilities in how training is provided



# TRAINING

- Collection & use of data;
- Effective public notification systems;
- Complaint procedures;
- Compliance review techniques;
- Resolution of noncompliance;
- Reasonable accommodation of people with disabilities;
- Language assistance;
- Conflict resolution; and
- Customer service.



# SITUATION 3

A WIC agency decides to provide computer based training on civil rights to its front line workers. Is this allowable? What are some other alternatives?





# DATA COLLECTION

- Why do local Health Departments have to collect data on ethnicity and race?

## **ANSWER:**

Agencies are expected to analyze the data to determine where there might be disparities and under representation.



# DATA COLLECTION

## ■ What data need to be collected?

**ANSWER:** Everyone needs to code whether he or she is Hispanic or Latino or not Hispanic or Latino and then needs to code as many of the 5 racial categories as are applicable.



# DATA COLLECTION

What are the five racial categories?

**ANSWER:**

1. American Indian or Alaskan Native
2. Asian
3. Black or African American
4. Native Hawaiian or Other Pacific Islander
5. White



# DATA COLLECTION

What if someone refuses to provide this information?

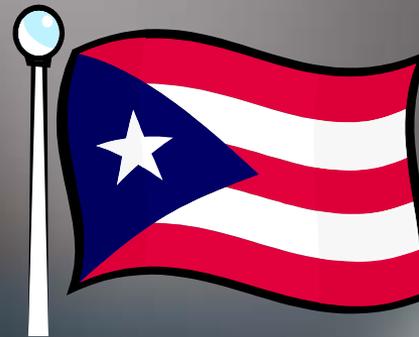
**ANSWER:** Explain that it is a Federal requirement and that someone from the Agency will code for them based on the perceived race and ethnicity of the applicant or beneficiary.

The rationale is that since discrimination is often based on perception, the perception of the person making the determination would probably be shared with others.



# SITUATION 4

Someone has a Puerto Rican mother and a Polish father and would like to code both “Hispanic or Latino” and “Not Hispanic or Latino.” Is this allowed and why?





# **PUBLIC NOTIFICATION**

**The purpose of public notification is to insure that people understand program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.**



# PUBLIC NOTIFICATION

What are some of the components of public notification?

- **Outreach**
- **Displaying the “And Justice for All...” poster**
- **Including the nondiscrimination statement on all materials that mention WIC or any other program funded by USDA.**
- **Providing information in other languages and by means accessible to people with disabilities.**
- **Insuring that photos and graphics reflect diversity.**



# SITUATION 5

How would you go about ordering new non-discrimination posters? Should you wait until a review to provide new ones if old ones have been taken down or have been defaced? What information do local clinics have about ordering new posters?





# SITUATION 6

There are people living in your community who may be eligible for WIC, but they are not participating. What are some reasons why this might be happening? How could you find out for sure why they are not participating? What might be done to get at least some of these people to participate?





# PUBLIC NOTIFICATION

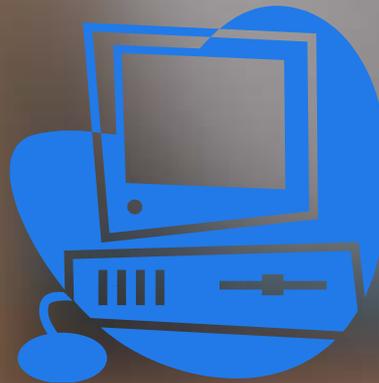
## Nondiscrimination statement

- Make sure you use the right one! There are several different nondiscrimination statements depending on which laws, regulations, and directives apply.
- The protected classes in WIC are race, color, national origin, age, sex, and disability.
- A short version of the statement “This institution is an equal opportunity provider” may be used where the long version does not fit and where there is no discussion of rights and responsibilities. Just make sure it is in the proper font size.
- FNS-113-1 pages 13-15 should be used as a reference on public notification. WIC regulations at 246.8(b) are also a reference.



# SITUATION 7

Where does the USDA non-discrimination statement need to be included? What are the main differences between the long and short versions and when is one preferable as opposed to the other?





# SITUATION 8

Do newspapers need to print the nondiscrimination statement in stories that they run about the WIC program? Why or why not?





# COMPLAINT PROCEDURES

- Despite your best efforts at customer service and at following the rules, some people may feel that they have been subjected to discrimination.
- Everyone has the right to file a discrimination complaint.
- Everyone at the site needs to know what to do if someone wants to file a complaint.



# COMPLAINT PROCEDURES

Be aware of the bases for which complaints may be filed: race, color, national origin, age, sex, and disability

- Never discourage groups or individuals from filing complaints or from voicing allegations of discrimination.
- Know where to file a complaint – USDA
- FNS Instruction 113-1 outlines complaint investigation procedures.



# COMPLAINT PROCEDURES

To file a complaint, complainants may write to the: Director, USDA or Director, Office of Civil Rights  
1400 Independence Avenue, SW, Washington, D.C.  
20250-9410 or call (800) 795-3272 or (202) 720-6382 (TDD).

In the Western Region, complaints may also be sent to:

Regional Director, Civil Rights  
USDA, Food and Nutrition Service,  
Western Region  
90 Seventh Street, Suite #10-100  
San Francisco, CA 94103  
(415) 705-1313



# Complaint Procedures

- Contact:

Civil Rights Coordinator

Family Nutrition Programs - WIC

DHSS/Division of Public Assistance

130 Seward Street, Room 508

Juneau, AK 99801

Phone: 1-907-465-3100



# COMPLAINT PROCEDURES

Department



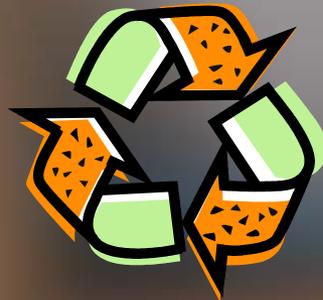
FNS Headquarters



FNS Regional Office



FNS Field Office





# COMPLAINT PROCEDURES

All agencies with 15 or more employees should have procedures for dealing with complaints alleging discrimination based on disability and sex. The regulations at 7 CFR 15b.6 and 7 CFR 246.8(b) cover this requirement.



# SITUATION 9

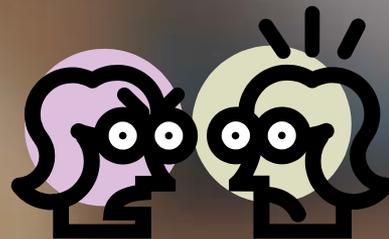
An applicant who is denied WIC benefits alleges discrimination and wants to file a complaint. You know that discrimination was not a factor in the decision. What should you do?





# SITUATION 10

A WIC manager is very angry that the person in the previous situation filed a discrimination complaint and took up a lot of her time and made her look bad. She tells her co-workers to watch out for this “troublemaker.” The next time the person visits, she encounters “attitude” from employees. What are the civil rights violations described here?





# QUESTIONS?





# CLOSING THOUGHTS

And in the end, it's not the years in your life that count. It's the life in your years.

Abraham Lincoln

**THANKS FOR ALL YOU DO !!!**





# CONTACT INFORMATION

**Becky Carrillo**

**WIC Civil Rights Coordinator**

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**DHSS/Division of Public Assistance**

**130 Seward Street, Room 508**

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**E-mail: [rebecca.carrillo@alaska.gov](mailto:rebecca.carrillo@alaska.gov)**

**Adapted from the Idaho Department of Education  
Child Nutrition Programs**



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