

GOALS OF CIVIL RIGHTS

- ◆ Equal treatment for all applicants and beneficiaries
- ◆ Knowledge of rights and responsibilities
- ◆ Elimination of illegal barriers that prevent or deter people from receiving benefits
- ◆ Dignity and respect for all

What is Discrimination?

The act of distinguishing one person or group of persons from other, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes.

What Is a Protected Class?

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

Discrimination = Four D's

...an individual or group is:

- **Denied** benefits or services that others receive
- **Delayed** receiving benefits or services that others receive
- Treated **Differently** than others to their disadvantage
- Given **Disparate** treatment something which does not seem discriminatory, but has a discriminatory impact in practice

Examples of Discrimination

- ◆ Refuse a participant's enrollment based on disability
- ◆ Failure to provide reasonable accommodations to disabled individuals
- ◆ Serving meals at a time, place, or manner that is discriminatory
- ◆ Selectively distributing applications and income forms
- ◆ Failure to provide the same eligibility criteria to all participants
- ◆ Failure to provide foreign language materials regarding Special Milk Program

Components of Civil Rights Compliance

- ◆ Public Notification System
- ◆ Outreach and Education
- ◆ Data Collection
- ◆ Reasonable Accommodations
- ◆ Language Assistance
- ◆ Civil Rights Complaint Procedures
- ◆ Technical Assistance and Training
- ◆ Customer Service
- ◆ Conflict Resolution

Equal Access

- All participants who attend must be provided equal access to the benefits of the Special Milk Program.
- To withhold the program from any eligible age group is *age* discrimination.

Public Notification

Must include information on:

- Eligibility
- Benefits & Services (i.e., free or reduced-price meals)
- Program availability
- Applicant rights and responsibilities
- Procedures for filing a complaint
- Nondiscrimination policies
- Any programmatic changes (i.e., changing location of a meal site)

Methods of Public Notification

- **Public Release – Issued by Agency**
 - Inform the general public that your agency sponsors the Special Milk Program and that milk is provided at no separate charge.
- **Post “And Justice for All” Poster (required)**
 - Includes the USDA’s required nondiscrimination statement and lists the USDA contact information for filing a complaint of discrimination.
- **Other methods of public notification (optional):**
 - Bulletins
 - Letters/Leaflets/Brochures
 - Internet/Computer-based Applications

“And Justice for All” Poster

- All agencies participating in Child Nutrition Programs must display the USDA’s nondiscrimination poster in a prominent area where participants and potential participants have access
 - Examples: cafeteria/food service area, office, centrally located bulletin board
- Must be posted at every site
- Must be 11” x 17” format

DPI provides posters to centers free of charge.



Public Notification System

News Media Release

Annually submit to local news media outlet
(i.e. – newspaper)

Keep a copy of file stating where and when submitted (e.g., CC of email, signed certified mail card, affidavit from person receiving)

All organizations participating in the Special Milk Program must provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the program.

Outreach and Education

- ◆ You want to reach as many potential participants as possible.
- ◆ You want to ensure program access.
- ◆ You need to pay attention to under-represented groups.
- ◆ Include the required nondiscrimination statement on all appropriate FNS and agency publications, web sites, posters, and informational materials.
- ◆ When using graphics, reflect diversity and inclusion.

Nondiscrimination Statement (NDS)

At a minimum, the full USDA Nondiscrimination Statement (NDS) must be on:

- Application form(s) for the Special Milk Program
- Notification of eligibility or ineligibility of Special Milk Program
- Notification of adverse action
- Program (Home) webpage (or a link to it)
- Public information, including program literature

The full NDS is on the next slide. Agencies may copy and paste the full NDS from the document available on website

[Nondiscrimination statement with Complaint Filing Procedures](#)

Nondiscrimination Statement (5/22 revision)

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/ad-3027.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.

Nondiscrimination Statement

If the material or document is too small to permit the full statement (previous slide) to be included, the material **MUST**, at a minimum, include:

“This institution is an equal opportunity provider.”

Collecting and Recording Participation Data

- Race and ethnicity is used to determine how effectively your program is reaching potentially eligible participants and where outreach may be needed.
- Establish a system to collect race and ethnicity data on an annual basis
- Program applicants may not be required to furnish race and ethnicity
 - You may inform the household, however, that collection of this information is strictly for statistical reporting and has no influence on eligibility determination for the program.
- Data collectors may not second guess, change, or challenge a self-declaration of race and ethnicity made by a participant unless such declarations are blatantly false

Data Collecting and Reporting

Collect ethnicity data first, then race data

1. **Ethnicity categories:**

- Hispanic or Latino
- Non-Hispanic or Non-Latino
- Unknown

2. **Race categories (instructions should specify “mark one or more”)**

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White
- Unknown

Obtain Race / Ethnicity Data Through...

Voluntary self-identification or self-reporting

USDA issued guidance that visual observation and identification is no longer an allowable practice in obtaining race and ethnicity from Special Milk Program participants

- Use any documentation your agency collects that includes identification of participant race and ethnicity data (i.e., program-specific enrollment form)

Race and Ethnicity Data Form

Race and Ethnicity Data Form

COMPLETE AND RETAIN ON FILE
DO NOT SUBMIT TO DPI UNLESS REQUESTED

Agency Name: _____ Site Name (if different): _____

Site Address: _____

Instructions: Each participant must be recorded in both the Ethnicity and Race categories.

1. Record the total number of participants for each ethnicity.
2. When the ethnicity of participants is not available, record these participants as Unknown.
3. Record the total number of participants for each race (a participant can be recorded as more than one race).
4. When the race of participants is not available, record these participants as Unknown.

ETHNICITY	Number of Participants
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."	
Not Hispanic or Latino	
Unknown	
Total	

RACE	Number of Participants
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.	
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.	
Black or African American. A person having origins in any of the black race groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."	
Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	
White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.	
Unknown	
Total (must equal or exceed total of ethnicity groups)	

Name of Agency Representative

Agency Representative Signature

Date

Data may be:

- Annually compiled and documented on this *Race and Ethnicity Data Form*, or
- Collected and maintained within a database for annually compiling into a printed report

Form available
on website ↓

[Race and Ethnicity Data Form](#)

https://dpi.wi.gov/sites/default/files/imce/community-nutrition/pdf/ns_smp_race_and_ethnicity_data_form.pdf

Data Management

- **Collection systems must ensure that data collected/retained are:**
 - Collected and retained by each program site
 - Kept secure and confidential
 - Submitted, if requested, to FNS Regional or Headquarters Offices
 - Kept on file for 3 years plus the current program year
 - Identify all sources of information used

Conflict Resolution

- **The USDA recommends using an Alternative Dispute Resolution (ADR) program**

ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation.

For more information, visit:

[Federal Sector Alternative Dispute Resolution | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/federal-sector-alternative-dispute-resolution)

Reasonable Accommodations for Persons with Disabilities

Providing Food Substitutions

A disability is defined as any physical or mental impairment substantially limiting one or more “major life activities”, including digestion.

[This includes food allergies and intolerances.](#)

Programs are **required** to reasonably accommodate participants whose disabilities restrict their diets by providing substitutions or modifications for their meals, when supported by a proper medical statement

The medical statement must:

- (1)** Be from a licensed healthcare professional authorized to write medical prescriptions under Wisconsin law. *These are: Licensed Physicians; Physician Assistants; and Advanced Practice Nurse Prescribers (APNP)*
- (2)** Include a description of impairment (reason for request) and how to accommodate the impairment (e.g., food(s) to be avoided and recommended substitution(s))

Language Assistance

Limited English Proficiency (LEP)

Definition:

- ◆ Individuals who do not speak English as their primary language and have limited ability to read, speak, write, or understand English.
- ◆ Recipients of 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)

- ◆ Participants should not be used as interpreters.
- ◆ Volunteers may be used, but make sure they understand interpreter ethics – particularly confidentiality!
 - Example: Staff with Spanish language skills could assist a household in completing an application but would need to be trained on the importance of keeping all information received from the household confidential

Limited English Proficiency (LEP)

- ◆ See www.lep.gov for more information and resources

A shortage of resources does not eliminate the translation requirement

Suggestions:

- **Share resources to save money**
 - Use interpreter from another area
 - Train bilingual staff to be interpreters
 - Contact grassroots organizations to discuss translation or assistance from within the community

- **Language line phone services may be available for a subscription fee through your local telephone service provider**

Right to File a Complaint

Any person who believes he or she or someone he/she knows has been discriminated against based on Federal protected classes (i.e., National origin, race, etc.) has a right to file a complaint within **180 days** of the alleged discriminatory action.

- Complainants should use Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at:

<https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>.

- Complainants may contact either of the following offices to register a complaint:

USDA- Office of the Assistant Secretary for Civil Rights: Refer to slide 14 for the address, fax number, and email address.

Wisconsin DPI: Director, Community Nutrition Programs, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707-7841, (608) 267-9129

Handling Civil Rights Complaints

- ◆ Complaints can be written or verbal
- ◆ Anonymous complaints should be handled as any other complaint
- ◆ All verbal or written complaints must be forwarded to the WI DPI or USDA's Office of the Assistant Secretary for Civil Rights ***within three days*** of receiving a complaint
- ◆ Sponsors must give complainants a *Civil Rights Complaint Form* to complete (slide 27 has web link)
- ◆ Document all potential complaints in a *Civil Rights Complaint Log*
- ◆ Have a central location where the *Civil Rights Complaint Forms* and *Civil Rights Complaint Log* will be kept

The following information should be included in a Civil Rights Complaint

- ◆ Name, address, phone number of complainant, if provided (not required)
- ◆ Specific name and location of entity delivering the benefit or service
- ◆ The nature of the incident, action, or method of administration that led the complainant to feel discriminated against

The following information should be included in a Civil Rights Complaint

(Continued)

- ◆ The basis on which the complainant feels discrimination exists [race, color, national origin, sex (including gender identity and sexual orientation), age, or disability]
- ◆ The names, titles, and business addresses of persons who may have knowledge of the discriminatory action
- ◆ The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions

Civil Rights Training for Agency Staff

- ◆ All staff who work with the Special Milk Program must receive training on all aspects of civil rights compliance annually
- ◆ Topics:
 - What is Discrimination?
 - Collecting/recording racial/ethnic data
 - Where to display posters
 - What is a Civil Rights complaint
 - How to handle a Civil Rights complaint
- ◆ Retain training records of the people who received civil rights training

Customer Service

- All participants must be allowed equal opportunities to participate in Child Nutrition programs regardless of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability
- All participants must be treated in the same manner (i.e., seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval processes)

Understanding Differences: Respectful Language

Put the person first

- ❖ Example: USE “person with a disability”, NOT “disabled person”

Use culturally sensitive language

- ❖ Example: USE “Asian”, NOT “Oriental”

Use inclusive/respectful terms

- ❖ Example: USE “chair”, NOT “chairman”

The Side Road – Business Communication:

http://www.sideroad.com/Business_Communication/politically-correct-language.html

Ask yourself each time you interact with participants...

- How would I want to be addressed?
- Am I treating this person in the same manner I treat others?
- Have I informed this person exactly what information I need to make a determination on the application?
- Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions?
- Have I provided this person with needed information to make necessary decisions?

Civil Rights “Must Do List”

- ❑ Provide the Special Milk Program in a nondiscriminatory manner
- ❑ Must offer milk to all participants in care and provide milk substitutions to participants with disabilities
- ❑ Prominently display the “*And Justice for All*” poster
- ❑ Nondiscrimination statement & complaint filing procedure must be on all printed materials available to the public which mention USDA and/or Special Milk Program, including websites
- ❑ Annually complete the Ethnic and Racial Data Form

Civil Rights “Must Do List”

- Provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the Special Milk Program
- Train staff annually on Civil Rights and complete a training form
- Develop & fully implement your Civil Rights Complaint Procedure
- Make available to all staff: Civil Rights complaint forms, Civil Rights Log and Civil Rights complaint procedure
- Refer all Civil Rights complaints to DPI or USDA