Civil Rights Compliance and Enforcement in Special Nutrition Programs

• Civil Rights Compliance and Enforcement in Special Nutrition Programs.
• Local agencies, including Child and Adult Care Food Program (CACFP) institutions and Summer Food Service Program (SFSP) sponsors, must complete this entire training.
• At this time, click on the tab titled “Notes” on the right-hand side of your screen. Using this feature will make it easy to follow along with the presentation.
• There are two ways to certify attendance of annual Civil Rights training. Guidance regarding this process will be provided at the end of this training.
• If more than one person is viewing this presentation, you must complete the Multi-Participant Sign-In sheet which can be found in the Civil Rights handouts.
• As a reminder, the handouts for this training were sent in the confirmation email and can be accessed and printed at any time.
• Remember, if you have Civil Rights questions at the conclusion of this training contact your regional consultant.
In North Carolina, there are two Special Nutrition Programs: the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP).

The goal of this training is to describe the civil rights procedures and requirements that apply to both the State Agency and local agencies operating Special Nutrition Programs (SNP).

Local agencies are Child and Adult Care Food Program (CACFP) institutions and Summer Food Service Program (SFSP) sponsors. If you are a CACFP institution or a SFSP sponsor, you are the local agency.

Though the civil rights requirements of these two programs are the same, some of the information in this presentation applies only to CACFP or SFSP. You may disregard information that does not apply to your program.
The Purpose of FNS Instruction 113-1

• To establish and convey policy

• Provide guidance and directions to the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), and its recipients and customers

• First we will discuss the purpose of the FNS Instruction 113-1 to get a better understanding of the Civil Rights requirements and policies as they pertain to Special Nutrition Programs (SNP).

• FNS Instruction 113-1 is a government document that describes the civil rights procedures and requirements of Special Nutrition Program (SNP) participants.

• The purpose of FNS Instruction 113-1 is to establish and convey policy, to provide guidance and direction to the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) and its recipients and customers.
The Purpose of FNS Instruction 113 -1, cont’d

- Ensure compliance with and enforcement of the prohibition against discrimination in all FNS nutrition programs and activities

…and to ensure compliance with and enforcement of the prohibition against discrimination in all FNS nutrition programs and activities whether Federally funded in full or part.
What is discrimination?

- **Discrimination**: the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions taken or lack of actions based on their protected basis.

What is discrimination?

According to FNS 113-1, discrimination is defined as the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions taken or lack of actions based on their protected basis.
According to FNS 113-1, there are 6 protected classes in Special Nutrition Programs (SNP).

The protected classes are: race, color, sex, age, disability, and national origin.

In other words, CACFP institutions and SFSP sponsors cannot discriminate against participants or potential participants on the basis of race, color, sex, age, disability, or national origin.

Let's take closer look at statutory laws and regulations that protect these classes.
There are numerous statutory laws, or written laws, that were enacted by the government to protect our civil rights. We will discuss the statutory laws that govern Special Nutrition Programs (SNP). First, we have Title VI of the Civil Rights Act of 1964, 42 U.S.C., § 2000d, prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance.

Now let's take a moment to define race, color and national origin.
According to the US Census Bureau, race is a self-identification data item in which respondents choose the race or races with which they most closely identify. A person may identify themselves as being Black or African American, White, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, some other race, or they may choose to identify themselves as several races.

• **Race**- a person’s skin tone

• **Color**- a person’s skin tone. Skin tones can range from very dark to very light.

• **National Origin**- a person’s nation of birth or origin.

According to the Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin. Race, color, and national origin are all protected classes.
Title VI of the Civil Rights Act of 1964

• Prohibits National Origin discrimination against persons with Limited English Proficiency (LEP)

• Local agencies are required to take reasonable steps to assure “meaningful” access to the information and services they provide for persons with LEP

• Title VI of the Civil Rights Act of 1964 also prohibits National Origin discrimination against persons with Limited English Proficiency or “LEP”.

• Persons with Limited English Proficiency are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English.

• According to FNS Instruction 113-1, state agencies, local agencies, and other sub recipients are required to take reasonable steps to assure meaningful access to the information and services they provide for persons with LEP.

• Later in the presentation we will discuss in detail how to provide meaningful program access to LEP persons.
• The next regulation we will discuss is the Americans with Disabilities Act. The Americans with Disabilities Act prohibits discrimination based on disability in all services, programs, and activities provided to the public by state and local governments, except public transportation services.

• According to FNS 113-1, a disability is defined as a physical or mental impairment that substantially limits one or more of an individual’s major life activities.

• Some examples of disabilities include being handicapped, blind or deaf.

• Persons with disabilities must have program access by phone and mail, effective communication with program staff, and easy access to the building itself.

• For example, you may need to provide a ramp to enable a person in a wheelchair to participate in your program.
• Title IX of the Education Amendments of 1972 prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance and USDA implementing Regulation, 7 CFR Part 15a.

• Remember that sex is one of the six protected classes. Local agencies should be careful to avoid any form of discrimination based on sex.

• An example of discrimination based on sex is serving girls before boys are served. Though it is generally considered polite to serve ladies first, doing so can be considered discrimination even when it is not meant to be discriminatory.
Rehabilitation Act of 1973
(Section 504)

• Prohibits discrimination based on disability by employers and organizations that receive federal assistance and USDA Implementing Regulation, 7 CFR Part 15b

• Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability by employers and organizations that receive federal financial assistance and USDA Implementing Regulation, 7 CFR Part 15b.
The Age Discrimination Act of 1975, 45 CFR Part 91, prohibits discrimination based on age in programs or activities receiving Federal financial assistance.

The Age Discrimination Act of 1975, 45 CFR Part 91, prohibits discrimination based on age in programs or activities receiving Federal financial assistance.
SNP Civil Rights Compliance Areas

• Collection and Use of Data
• Effective Public Notification Systems
• Complaint Procedures
• Conflict Resolution
• Customer Service

• FNS Instruction 113-1, establishes nine Civil Rights Compliance Areas. This training will cover all nine areas in detail.
• The compliance areas are: Collection and Use of Data, Effective Public Notification Systems, Complaint Procedures, Conflict Resolution, Customer Service…
SNP Civil Rights Compliance Areas, cont’d

• Compliance Reviews
• Resolution of Noncompliance
• Requirements for Language Assistance
• Requirements for Reasonable Accommodation of Persons with Disabilities

…Compliance Reviews, Resolution of Noncompliance, Requirements for Language Assistance, and Requirements for Reasonable Accommodation of Persons with Disabilities.

• Let's discuss the 9 compliance areas in detail.
The first area we will discuss is the collection and use of data.
• Institutions and sponsors must complete a Pre-award Compliance form as a part of the application process.
• To fill out this form you must determine the number of potentially eligible beneficiaries in your service area. Your service area is your town or community.
• This information can be obtained from census data or public school data.
• Completed forms should be maintained on file.

Data Collection and Reporting: Pre-award Compliance Form

• Determine the number of potentially eligible beneficiaries

• Sources of this data include:
  • Census data (www.census.gov)
  • Public school enrollment data

• Completed forms should be maintained on file
• This is the Pre-award Compliance form.
• This form is handout number 1 in the Civil Rights Training Handouts.
• Use number counts, not percentages to complete the ethnic and racial data.
• The form must be completed in its entirety, including all questions at the bottom. If any one of the six protected classes is included in a description, you must include all 6 of the protected classes. If question 4 and/or 4a do not apply to you, please write n/a. Do not leave any part blank.
• As you can see, you must enter both ethnic data and racial data on this form. Let’s talk for a moment about ethnicity and race.
Every person has both an ethnicity and a race.

The ethnic categories are: Hispanic or Latino AND Not Hispanic or Latino.

Racial categories include: American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White.

A person can only have one ethnicity, but they may identify with more than one race. For example, Suzie’s ethnicity is “not Hispanic or Latino” and she identifies her race to be both White and Asian.

Because a person can have more than one race, when you complete the Pre-award Compliance Form the total number of persons listed under race must be equal to or greater than the total number of persons listed under ethnicity.
Data Collection and Reporting:
Ethnic and Racial Data Form

- Complete this form with actual racial and ethnic data for program participants

- Complete once a year for each:
  - Facility (CACFP)
  - Site (SFSP)
    - Residential camps must collect and maintain this information separately for each session of the camp

Institutions and sponsors are required to complete the Ethnic and Racial Data Form by obtaining the actual racial and ethnic data for program participants. During the operation of your program you are required to complete this form once a year for each facility, for CACFP, or each site, for SFSP. However, residential camps participating in SFSP must collect and maintain this information separately for each session of the camp.

- The numbers on the Ethnic and Racial Data Form will be different from the numbers on the Pre-award Compliance Form because the numbers on this form are the actual numbers from your facilities or sites.

- Let's take a look at this form.
Here are the Ethnic and Racial Data forms for CACFP and SFSP. The form on the left is for CACFP institutions. It asks for the number of participating children and adults for ethnicity and race. The form on the right is for SFSP sponsors. It asks only for the number of children in each category. These forms are handout number 2 in the Civil Rights Training Handouts. For CACFP institutions, handout 2a is the Notice Of Annual Collection Of Ethnic And Racial Data that should be posted prior to data collection.

Complete the Ethnic and Racial Data Form with number counts, not percentages. As with the Pre-award Compliance Form, the total number of persons listed under race must be equal to or greater than the total number of persons listed under ethnicity.

Let’s take a look at how to collect ethnic and racial data in your facilities or sites.
• Institutions and sponsors can obtain actual beneficiary data by ethnic and racial category either by: self-identification, also known as self-reporting, or by visual identification.

• Self-identification or reporting is the preferred method of obtaining this information. However, if the parent does not provide or refuses to provide this information then the data collector shall through visual observation secure and record the information. Keep in mind that if the visual observation method is used, parents must be informed by the data collector that the child will be assigned a racial or ethnic group if one is not assigned by the parent or guardian. The local agency may not second guess or in any way change or challenge a self-declaration made by an applicant as to his or her ethnic or racial background, unless such declarations are patently false.

• The local agency must establish a system to ensure that actual ethnic and racial data is collected annually for all program participants.
Data Collection and Reporting: Ethnic and Racial Data

• Data, as well as documentation of data, shall be maintained using safeguards that prevent its use for discriminatory purposes.

• Institutions and sponsors are required to maintain a written policy for confidentiality of data on file.
  • What is the purpose of the policy?
  • What are the procedures for accessing the data?
  • Who has access to the data?
  • Where is the data stored?

• Ethnic and racial data, as well as the documentation of the data, shall be maintained using safeguards that prevent its use for discriminatory purposes. Such safeguards shall include allowing access to program records containing this data only by authorized personnel.

• Institutions and sponsors are required to maintain a written policy for confidentiality of data on file. The policy must include the purpose of the policy, what the procedures are for accessing the data, who has access to the data, and where the data will be stored or maintained.

• The purpose of this policy is to prevent unauthorized persons access to the data, and to prevent the data from being used for discriminatory purposes.

• A Sample Confidentiality Policy is handout number 3 in the Civil Rights Training Handouts.
• Documentation for the data collected must be kept on file

• Data collected must be restricted to authorized personnel only

• Documentation for the data collected must be kept on file, and data collected must be restricted to authorized personnel only.
• The next area of Civil Rights compliance that we will discuss is public notification systems.
The Purpose of Public Notification

• To inform applicants, participants, and potentially eligible persons of SNP:
  • Program Availability
  • Rights and responsibilities
  • Policy of nondiscrimination
  • Procedure for filing a complaint

• The purpose of public notification is to inform applicants, participants, and potentially eligible persons of Special Nutrition Programs: program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.

• First we will discuss program availability.
Public Notification: Program Availability

- Local agencies must take actions to inform the following groups about SNP and applicable Civil Rights requirements:
  - the general public
  - potentially eligible populations
  - community leaders
  - grassroots organizations and referral sources

Local agencies must take actions to inform the general public, potentially eligible populations, community leaders, grassroots organizations, and referral sources about SNP and applicable Civil Rights requirements.
Public Notification: Program Availability

- Potentially eligible persons, applicants, participants, and grassroots organizations must be informed of their program rights and responsibilities, and the steps necessary for participation.

- Eligibility information
- Benefits and services
- Location of local facilities
- Service delivery points
- Hours of service

Potentially eligible persons, applicants, participants, and grassroots organizations must be informed of their program rights and responsibilities, and the steps necessary for participation. The public must also be informed of eligibility information, benefits and services, location of local facilities, service delivery points, and hours of service.
State Agency Public Notification

- Sponsors are required to submit a media release informing the public of:
  - Eligibility information
  - Benefits and services
  - Location of sites and facilities
  - Hours of service

- So how do you notify the public? Each year the State Agency requires institutions and sponsors to submit a media release informing the public of eligibility information, benefits and services, location of sites and facilities, and hours of service. Both CACFP and SFSP have media releases specific to their program.

- A special note regarding the SFSP media release: The open site media release is handout number 4a in the Civil Rights Training Handouts, and the closed enrolled and camp site media release is handout number 4b in the Civil Rights Training Handouts. Additionally, the CACFP media release for child care centers is handout 5a, and the media release for day care homes, emergency shelters, and at-risk centers is handout 5b.
The purpose of the media release is to inform the general public, potentially eligible populations, community leaders, grassroots organizations, and referral sources about Food and Nutrition Service (FNS) programs and the applicable Civil Rights requirements.
Using Media Releases to Notify the Public

- SFSP Media Releases
  - Open Sites
  - Closed Enrolled & Camp Sites

- CACFP Media Releases
  - Child Care Centers
  - Day Care Homes, Emergency Shelters, and At-Risk Centers

Please note that there are two types of media releases for each program. In SFSP, one form is specific to open sites while the other is specific to other site types. Use the media release which reflects your program. These are handouts 4a and 4b in your Civil Rights Handouts. This also applies to the CACFP media releases. One form is specific to child care centers and the other is specific to other types of institutions. These are handouts 5a and 5b in your Civil Rights Handouts.

Once you have completed the appropriate media release or releases for your program, submit them to the State Agency. Once you are approved to operate and you have the final version of your media release, provide it to the media of your choice.
• There are many different types of media outlets appropriate for your media release. These may include the internet, newspaper articles, radio, television announcements, letters, leaflets, brochures, and computer-based applications and bulletins.

• Now let’s move on to talk about public notification of complaint information.
• Applicants and participants must be advised at the service delivery point of their right to file a complaint, how to file a complaint and the complaint procedures.

This is accomplished by posting the nondiscrimination statement with the complaint information in each center or site.

• Let’s talk about the nondiscrimination statement.
Public Notification: Nondiscrimination Statement

- **Nondiscrimination Statement**: Must be included on materials, sources, and websites that inform the public about FNS Programs

- It is not required that the nondiscrimination statement be included on every page of the program information website; at a minimum, the nondiscrimination statement or link to it, must be included on the homepage of the program information.

---

• All informational materials and sources, including websites used by FNS, State agencies, local agencies, or other sub-recipients to inform the public about FNS Programs must contain a nondiscrimination statement. The nondiscrimination statement is **not** required to be included on every page of the program information website. At a minimum, the nondiscrimination statement or a link to it, must be included on the homepage of the program information.
Public Notification: Nondiscrimination Statement

• Must be included in full on all materials regarding the program that are produced for public information, public education or public distribution.

• The nondiscrimination statement must be included in full on all materials regarding the program that are produced for public information, public education or public distribution.
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 Internet, 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 statement “USDA is an equal opportunity provider and employer” is sufficient to meet the nondiscrimination requirements.
Nondiscrimination Statement and Filing a Complaint

“The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual’s income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (in Spanish). USDA is an equal opportunity provider and employer.”

• This is a copy of the nondiscrimination statement and the information necessary for filing a complaint. Notice that all of the 6 protected classes are listed in this statement.

• The nondiscrimination statement is handout number 6 in the Civil Rights Training Handouts.
“And Justice for All” Poster

- “And Justice for All” poster must be displayed in:
  - A prominent location
    - Parent board
    - Entrance
  - Be at least 11” wide x 17” high in size
    - Smaller copies are not acceptable
    - Must be able to see the entire nondiscrimination statement and the procedure for filing a complaint

- The “And Justice for All” poster must be displayed in a prominent location such as a parent board or entrance at each facility or site. Local agencies must have a copy of the poster displayed at their office or headquarters, as well.
- The poster must be at least 11” x 17” in size. Smaller sizes are not approved. The nondiscrimination statement and procedure for filing a complaint, which are on the poster, must be visible to the participants.
• Here is a picture of the “And Justice For All” poster.
• If you need additional posters, contact your regional consultant.
• A resource used by the CACFP is the Building for the Future Flyer and poster.
• When using the flyer, the following information must be completed before the flyer can be distributed to the public: The institution’s name, address, and contact phone number. If you decide to recreate this form, please make sure that all the information on your newly created form is the same as the flyer. If you are a sponsor of daycare homes, please make sure that each of your daycare home providers has a few of these flyers on hand at all times. The flyer is to be given to the parent or guardian of each child as they enroll.
• This flyer is handout number 7 in the Civil Rights Training Handouts.
• Complaint Procedures are also an area of compliance that we must discuss.
Any person alleging discrimination based on race, color, national origin, sex, age, or disability has a right to file a complaint within 180 days of the alleged discriminatory action.
Complaints of Discrimination

- Institutions and sponsors must report all written or verbal complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability to the State Agency.

- The State Agency will forward this complaint to the Civil Rights (CR) Division through the Food and Nutrition Services Regional Office (FNSRO).

- Institutions and sponsors must report all written or verbal complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability to the State Agency.

- The State Agency will forward this complaint to the Civil Rights Division through the Food and Nutrition Services Regional Office.
The following information should be included in a Civil Rights complaint:

- Name, address and telephone number of the complainant or other means of contacting the complainant

- Specific location and name of the entity delivering the service or benefit
The following information should be included in a Civil Rights complaint, cont’d

• The nature of the incident or action that led the complainant to feel discrimination was a factor or an example of the method of administration that is having an effect on the public, potentially eligible persons, applicants, or participants

• The nature of the incident or action that led the complainant to feel discrimination was a factor or an example of the method of administration that is having an effect on the public, potentially eligible persons, applicants, or participants…
The following information should be included in a Civil Rights complaint, cont’d

- The basis on which the complainant believes discrimination exists
- The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action
- Date(s) during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions

- The basis on which the complainant believes discrimination exists
- The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action,
- And the date or dates during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions.
Procedures for Processing and Resolving Complaints of Discrimination

• All complaints alleging discrimination on the basis of race, color, national origin, age, sex, or disability, either written or verbal must be processed within 90 days of receipt.

• All complaints alleging discrimination on the basis of race, color, national origin, age, sex, or disability, either written or verbal must be processed within 90 days of receipt.
• Here is a copy of the complaint form for North Carolina Department of Health and Human Services, Special Nutrition Programs.

• This form is handout number 8 in the Civil Rights Training Handouts.

• Notice that the first question on the complaint form is “is this a civil rights complaint?” If the answer is “no” then the issue is handled as a conflict. Let’s move on to talk about conflict resolution.
Compliance Area #4: Conflict Resolution

- Conflict resolution is the fourth area of civil rights compliance.
Conflict Resolution

• Conflict comes about from differences in needs, values, and motivations.

• Conflict Resolution Network: www.crnhq.org/twelveskills.html

• Conflict comes about from differences in needs, values, and motivations. Sometimes we compliment each other due to our differences, but sometimes our differences can cause conflict. Conflict is not a problem in itself - it is what we do with it that counts.

• The website listed for the conflict resolution network outlines 12 approaches to resolving conflicts. These conflict resolution skills can help in everyday life as well as in your professional life.

• Conflict resolution is key to preventing a situation from potentially getting out of hand and it is one component of quality customer service.
• Customer Service is the 5th area of compliance.
• One of the best ways to ensure compliance with civil rights laws and ensure that we treat everyone the same is to provide excellent customer service.
• You are constantly interacting with customers when operating Special Nutrition Programs. Your customers are the children and families you serve, and they are also the members of your team, such as supervisors and staff. A customer is anyone, inside or outside your organization, who needs information, assistance, or a decision from you.
Customer Service

- Factors in customer satisfaction:
  - Professionalism
  - Listening skills
  - Availability
  - Responsiveness
  - Reliability

• Professionalism, listening skills, availability, responsiveness, and reliability all factor into a customer’s level of satisfaction. These relationship skills can help you turn a disappointing experience into a memorable success story for someone.
• Customers not only notice what we do and say, they also pay close attention to how we do and say things.
• Providing good customer service is key to avoiding the appearance or perception by anyone of unlawful discriminatory statements or actions.
Another area of civil rights compliance is compliance reviews.
• There are three types of Compliance Reviews:
  • Pre-approval/Pre-award Compliance Review
  • Post Award/Routine Compliance Review
  • Special Compliance Review

There are three types of Compliance Reviews: Pre-approval/Pre-award Compliance Reviews, Post Award/Routine Compliance Reviews and Special Compliance Reviews.
State Agencies perform thorough reviews of applications from institutions and sponsors to determine if the applicants are in compliance with civil rights provisions, based on information provided by applicants in their official application for program funds. This information is provided by SNP applicants on the Pre-award Compliance form. We discussed the Pre-award Compliance form earlier in this presentation. New institutions and new sponsors must complete this form as a part of their application packet.
Pre-approval/Pre-award Compliance Reviews

- No federal funds shall be made available to a State Agency, institution, or sponsor until a Pre-award Compliance Review has been conducted and the applicant is determined to be in compliance with civil rights requirements.

• No federal funds shall be made available to a state agency, institution, or sponsor until a Pre-award Compliance Review has been conducted and the applicant is determined to be in compliance with Civil Rights requirements.
Post Award/Routine Compliance Reviews

• Post Award/Routine compliance reviews evaluate compliance with civil rights laws, regulations, policies, instructions and guidance.

• Post award or routine compliance reviews evaluate compliance with civil rights laws, regulations, policies, instructions and guidance.
• These reviews take place during operation.
The third type of review is the Special Compliance Review. Special Compliance reviews are conducted by the FNS Regional Office and/or Headquarters Civil Rights Division when significant Civil Rights concerns that have a direct effect on the delivery of SNP services and/or benefits are identified.
Special Compliance Reviews

Are conducted when...

- Program participation data indicates that a particular group in a specific area is not benefiting from an FNS Program

- Reports of alleged noncompliance made by the media, grassroots organizations, or advocacy groups need to be resolved

Special Compliance Reviews are conducted when…
• Program participation data indicates that a particular group in a specific area is not benefiting from an FNS Program,
• Reports of alleged noncompliance made by the media, grassroots organizations, or advocacy groups need to be resolved…
Special Compliance Reviews

Are conducted when...

• Reports of alleged noncompliance made by other sponsors, such as Department of Education and the Department of Health and Human Services need to be resolved

• Patterns of complaints of discrimination have been documented

•…..Reports of alleged noncompliance made by other sponsors, such as the Dept. of Education and the Dept. of Health and Human Services, need to be resolved or…
•When patterns of complaints of discrimination have been documented.
•Resolution of noncompliance is the next area that we will discuss today.
Noncompliance

• “Noncompliance is a factual finding that any civil rights requirements, as provided by law, regulation, policy, instruction or guidelines, is not being adhered to by a State Agency, local Agency, or other sub-recipient.”

• What classifies as noncompliance? Noncompliance is a factual finding that any civil rights requirements, as provided by law, regulation, policy, instruction or guidelines, is not being adhered to by a State Agency, local Agency, or other sub-recipient.
Noncompliance

May result from:

- Management Evaluation
- Civil Rights Compliance Review
- Special Review
- Investigation

Noncompliance may be the result of: a Management Evaluation, a Civil Rights Compliance Review, a special review or an investigation.
Resolution of Noncompliance

• Once noncompliance is determined, the institution or sponsor must take immediate steps to obtain voluntary compliance.
• Effective date of the finding of noncompliance is the date of the written notice of noncompliance to the State Agency, local Agency or other sub-recipient.

• Once noncompliance is determined, the institution or sponsor must take immediate steps to obtain voluntary compliance.
• The effective date of the finding of noncompliance is the date of the written notice of noncompliance to the State Agency, local Agency or other sub-recipient.
Voluntary Compliance

- State Agency must
  - Provide immediate written notice to the local agency
    - Areas of noncompliance
    - Action required to correct the situation
  - Negotiate with the local agency to achieve compliance

In order to achieve voluntary compliance, the State Agency must: Provide immediate written notice to the local agency concerning the areas of noncompliance and the action required to correct the situation. The State Agency must also negotiate with the local agency to achieve compliance.
Voluntary Compliance

• If the corrective action has not been completed within 60 days of the finding, the state agency will submit a report of Findings of Noncompliance to the Regional Administrator (RA)

• If the corrective action has not been completed within 60 days of the finding, the state agency will submit a report of Findings of Noncompliance in letter format to the Regional Administrator.
Voluntary Compliance

- If the RA determines that voluntary corrective action cannot be achieved within the 60 days allowed by negotiation with the State Agency, local Agency and other sub-recipients, then the RA must submit the Report of Findings of Noncompliance with the appropriate documentation to the FNS Headquarters/ Civil Rights Division with copies to the appropriate FNS Deputy Administrator.

- If the Regional Administrator determines that voluntary corrective action cannot be achieved within the 60 days allowed by negotiation with the State Agency, local Agency and other sub-recipients then the Regional Administrator must submit the Report of Findings of Noncompliance with the appropriate documentation to the Food and Nutrition Services Headquarters/Civil Rights Division with copies to the appropriate Food and Nutrition Services Deputy Administrator.
If voluntary corrective action cannot be achieved within 60 days then the Food and Nutrition Services headquarters resolution of Non-compliance includes the following:

- FNS Headquarters must be advised and provided with pertinent documentation,
- FNS Headquarters will decide on the appropriate action.

FNS Headquarters Resolution of Noncompliance

- FNS Headquarters must be advised and provided with pertinent documentation
- FNS Headquarters will decide on the appropriate action
FNS Headquarters Resolution of Noncompliance, cont’d

• Once voluntary compliance efforts are exhausted, a 30 day notification is provided
• If still unresolved, information is forwarded to the USDA Office of Adjudication for the formal enforcement action
• Continued noncompliance may lead to final suspension or termination

• Once voluntary compliance efforts are exhausted then a 30 day notification is provided
• If still unresolved, the information is forwarded to USDA Office of Adjudication for the formal enforcement action.
• Continued noncompliance may lead to final suspension or termination.
• Now let’s discuss Requirements for Language Assistance, which is the 8th area of civil rights compliance.
Requirements for Language Assistance

- Institutions and sponsors are required to ensure that assistance will be available when needed for potentially eligible participants.

- Language assistance will improve access to program services for Limited English Proficiency (LEP) persons.
Limited English Proficiency (LEP)

• Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English.

• Persons with Limited English Proficiency are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
The Federal government mandates that persons with Limited English Proficiency shall have access to all federally funded programs. Furthermore, executive order 13166 was designed to improve access to services for persons with Limited English Proficiency (LEP).

Limited English Proficiency (LEP)

- Executive Order 13166
  - Dated August 11, 2000
  - Designed to Improve Access to Services for Persons with Limited English Proficiency (LEP)
Factors to consider when addressing LEP

• Number or proportion of LEP persons eligible to be served or likely to be encountered by the program

• Frequency with which LEP persons come in contact with the program

• According to FNS 113-1, institutions and sponsors are required to take reasonable steps to assure meaningful access to the information and services they provide.
• But what constitutes reasonable steps to assure meaningful access? This depends on a number of factors.
• The following factors should be considered when addressing Limited English Proficiency…. 
• Number or proportion of LEP persons eligible to be served or likely to be encountered by the program should be considered
• The greater the number of LEP persons, the more likely language services are needed 
• Frequency with which LEP persons come in contact with the program should also be considered.
• Local agencies have a greater duty to provide language assistance for individuals that access the program on a daily basis, as opposed to individuals whose contact with the program is infrequent or unpredictable.
Factors to consider when addressing LEP, cont’d

• Nature and importance of the program, activity, or service provided by the program

• Resources available to the Institution/Sponsor and Costs

• Nature and importance of the program, activity, or service provided by the program should also be considered
• Institutions/sponsors need to determine whether delay or denial of access to services or information could have serious or life-threatening implications
• The final factor that must be considered is the resources available to the recipient and costs.
• Smaller institutions and sponsors with more limited budgets are not required to provide the same level of language services as larger institutions and sponsors with larger budgets. However, be aware that technological advances, such as telephonic interpretation services, are an affordable solution for providing language assistance.
• For further guidance on language assistance for LEP persons, please refer to FNS Instruction 113-1.
• The USDA has materials available for state and local agencies in other languages.
Compliance Area #9:
Requirements for Reasonable Accommodations of Persons with Disabilities

• The final compliance area is Requirements for Reasonable Accommodations of Persons with Disabilities.
As we discussed earlier in this training, the Americans with Disabilities Act prohibits discrimination based on disability in all services, programs and activities provided to the public by State and local governments, except public transportation services.

Institutions and sponsors must ensure persons with disabilities have:

• Program accessibility (phone, mail, etc.)
• Easy access to the building
• Effective communication with Agency staff

Requirements for Reasonable Accommodations of Persons with Disabilities

• Ensure access to services by persons with disabilities by providing:
  • Program accessibility (phone, mail, etc.)
  • Easy access to the building
  • Effective communication with Agency staff

• As we discussed earlier in this training, the Americans with Disabilities Act prohibits discrimination based on disability in all services, programs and activities provided to the public by State and local governments, except public transportation services.

• Institutions and sponsors must ensure persons with disabilities have:

  • Program accessibility, for example by phone and mail,
  • Easy access to the building itself, and
  • Effective communication with Agency staff

• One way to provide program accessibility might be through web-based information.

• A wheelchair bound individual might need a ramp for accessibility to the building, as mentioned earlier.

• Effective communication is necessary to provide accommodations for persons with disabilities. If a participant is hearing impaired, you might need to solicit the services of a sign-interpreter.
Equal Opportunity for Religious Organizations

• Ensure a level playing field for the participation of faith-based organizations (FBO’s) and other community organizations in USDA programs.

• This means that discrimination on the basis of religion, religious belief, or religious character in the administration of Federal funds is prohibited.

• Religious organizations that participate in SNP are allowed to retain their independence and continue to carry out their mission, provided that direct USDA funds do not support any inherently religious activities such as worship, religious instruction or evangelism. Faith based organizations can use space in their facilities to provide USDA-funded service without removing religious icons, scriptures or other religious symbols.

• Finally, no organization that receives direct financial assistance from USDA can discriminate against a program beneficiary on the basis of religion or religious belief.
Staff Civil Rights Training

• Local agencies are responsible for training all frontline staff on civil rights.
Civil Rights Training

• State Agencies are responsible for annually training institutions and sponsors in all areas of civil rights compliance.

• CACFP institutions and SFSP sponsors must train all staff, including “frontline staff” and supervisors of “frontline staff,” in all areas of civil rights compliance annually.

• State Agencies are responsible for annually training institutions and sponsors in all areas of civil rights compliance.
• Institutions and sponsors must train all staff, including “frontline staff” and supervisors of “frontline staff,” in all areas of civil rights compliance annually.
• Frontline staff is anyone who comes in contact with customers or beneficiaries.
Civil Rights Training

• Must include:
  • Collection and use of data
  • Effective public notification systems
  • Complaint procedures
  • Compliance review techniques
  • Resolution of noncompliance

• Civil Rights training must include but is not limited to: Collection and use of data, Effective public notification systems, Complaint procedures, Compliance review techniques, Resolution of noncompliance…..
Civil Rights Training, cont’d

- Must include:
  - Requirements for reasonable accommodation of persons with disabilities
  - Requirements for language assistance
  - Conflict resolution
  - Customer service

…..Requirements for reasonable accommodation of persons with disabilities, Requirements for language assistance, Conflict resolution, and Customer service. These are the 9 compliance areas that must be included during staff training.

The State Agency suggests incorporating media resources provided by the United States Department of Justice into your training to help demonstrate the policies and procedures we have discussed today. Prior to this training, you were provided a link to watch a video titled “Understanding and Abiding by Title VI of the Civil Rights Act of 1964” as an example.
Assurances

• To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the entity to receive financial assistance will operate in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.

• Finally we will discuss Civil Rights Assurances.
• To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the entity to receive financial assistance will operate in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.
Here are some useful websites that you can access for further assistance on Civil Rights.

• The first website is the state agency’s website for Special Nutrition Programs.
• The second is the Food and Nutrition Services website.
• The third website will provide more information on Limited English Proficiency.
• And the last site listed is the electronic Code of Federal Regulations.

Internet Resources

2. www.FNS.USDA.gov
3. www.LEP.gov
4. ecfr.gpoaccess.gov
Civil rights assurances shall be incorporated in all agreements between State agencies and local agencies.

State agencies are responsible for reviewing, approving and monitoring agreements between the State Agency and institutions/sponsors.
As you may recall there are 2 ways to certify that you have completed this Civil Rights Training. First, you will receive a Thank You email approximately twelve hours after completing training. A link to the certificate of completion will be available in the Thank You email. Remember that you must have an active printer linked to your computer in order to print the certificate.

Second, if you are not able to print the certificate, or you do not receive the Thank You email due to technical difficulties, complete the Multi-Participant Sign-In Sheet in your Civil Rights Handouts. This document may be submitted as evidence of training completion in the absence of a training certificate.
Thank You!

Remember if you have Civil Rights questions contact your regional consultant. Thank you for completing the required Civil Rights Annual Training for Special Nutrition Programs!