



U. S. Department of Agriculture

Food and Nutrition Service

Commodity Supplemental Food Program (CSFP) Civil Rights Compliance Training

February 13, 2008

Two Opportunities for CR Protection

- 1) Specific CR Responsibilities
- 2) General Responsibilities

The State Agency is ultimately responsible for all aspects of program administration



1) Specific CR Responsibilities

Agreements must include assurance that **agencies will not subject any person to discrimination on grounds of race, color, national origin, age, sex , or disability**

- FNS & State Agencies
- State Agencies and Local or Sub-distributing
- Local and Sub-distributing or Other Agencies

247.4(c)(6)



1) Specific CR Responsibilities

Non-discrimination statement on

- Application form 7 CFR 247.8(b)
- Notification of eligibility or ineligibility 7 CFR 247.15(b)
- Expiration of certification notification 7 CFR 247.16(d)
- Discontinuance notification 7 CFR 247.17(c)

informing applicant that program standards are applied without discrimination by race, color, national origin, age, sex, or disability



1) Specific CR Responsibilities

Non-English or Limited-English Speakers

- Significant Portion
 - Notification of rights and responsibilities
 - Availability of bilingual staff or interpreters
- Significant portion with common language
 - Availability of program information
 - Application forms excepted

7 CFR 247.13



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1) Specific CR Responsibilities

Nutrition Education must be

- Easily understood
- Related to participants' nutritional needs
- Related to participants' household situation
- Account for specific ethnic and cultural characteristics whenever possible

7 CFR 247.18(b)



1) Specific CR Responsibilities

Reports and Recordkeeping

- FNS-191, Racial/Ethnic Group Participation
Local agencies must submit a report of racial/ethnic participation each year using Form FNS-191
- Purpose: evaluate the impact of your program on the low-income populations served

7 CFR 247.29(b)(3)



1) Specific CR Responsibilities

Management Reviews include evaluation of civil rights compliance

- State Agencies must establish review system
- Reviews must be conducted at least every two years
- Key questions
 - Does this organization meet all specific CR requirements?
See slides 3-19
 - Does this organization implement relevant and discretionary CR functions in a manner that treats similarly-situated groups equally?
See slides 20-22
- Expect advance notification of time and issues to be reviewed

7 CFR 247.34(a)



1) Specific CR Responsibilities

Federal Laws Applicable to CSFP (7 CFR 247.37)

- Title VI of Civil Rights Act of 1964 (42 USC 2000d)
- Title IX of Education Amendments of 1972 (20 USC 1681)
- Section 504 of Rehabilitation Act of 1973 (29 USC 794)
- Age Discrimination Act of 1975 (42 USC 6101)
- Titles II and III of Americans with Disabilities Act of 1990 (42 USC 12101)
- USDA Departmental regulations
- FNS Instruction 113



Federal Laws Applicable to CSFP (7 CFR 247.37)

Title VI of Civil Rights Act

- No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- Covers All Government (State & Local) Agencies
- Covers an entire corporation, partnership, or other private organization, or an entire sole proprietorship -
 - if assistance is extended as a whole; or
 - if it is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation



Federal Laws Applicable to CSFP (7 CFR 247.37)

- **Title IX of Education**

- Prohibits use of sexually discriminatory practices
- Sex discrimination & sexual harassment

- **Section 504 of Rehabilitation Act**

- Prohibits discrimination based on disability
- Disabled: any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; (ii) has a record of having such an impairment; or (iii) is regarded as having such an impairment
- Good Faith, Reasonable Accommodation & Undue Burden
Assessment of circumstances, including an analysis of the size of a program, its overall budget compared to the potential cost of an accommodation, the potential disruption to a program's central services that might be caused by the requested accommodation, and other factors.



Federal Laws Applicable to CSFP (7 CFR 247.37)

- **Age Discrimination Act**
 - Prohibits discrimination based on age, unless age is a requirement of the program
 - Prohibits retaliation
- **Americans with Disabilities Act**
 - Title II: equal access to programs
 - Title III: defines public entity as any state or local government or any department or agency thereof. The lack of accessibility or certain services can be considered discrimination, regardless of who it actually affects.



7 CFR 247.37 Requires Compliance with USDA Regulations & FNS Instruction 113

FNS Instruction 113

Limited English Proficiency (LEP) Compliance (VII)

- Number or proportion of persons with LEP
- Frequency of contact
- Nature and importance of program/activity
Mandatory components are important
- Resources available to recipient



FNS Instruction 113 (continued)

Public Notification (IX)

- Non-discrimination statement on all materials regarding the program that are produced for public information, public education, or public distribution

“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 Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.”

- **On small materials:** “This institution is an equal opportunity provider”



FNS Instruction 113 (continued)

Public Notification (IX)

- Display “And Justice for All” posters or an FNS-approved substitute
- Display prominently
- SA may print own posters from FNS Website on approximately same size paper (11”width and 17” height). Go to <http://www.fns.usda.gov/cr/justice.htm>.

CR Training (XI)

- Cascading approach to training for program , front-line staff & supervisors of front-line staff
- Annual basis on specific topics (see slides 16 through 19)



FNS Instruction 113 (continued)

CR Training (XI) - continued

Specific Topic: Collection and use of data

- For applicants and participants
- Voluntary self-designations
- Maintained for a period of three years
- According to OMB Guidance for National Origin
 - Hispanic or Latino
 - Not Hispanic or Latino
- According to OMB Guidance for Race (Mark all that Apply)
 - American Indian or Alaska Native
 - Asian
 - Black or African American
 - Native Hawaiian or Other Pacific Islander
 - White



FNS Instruction 113 (continued)

CR Training (XI) - continued

Specific Topic: Public Notification Systems (slides 4, 14, 15)

Specific Topic: Complaint Procedures (slides 21-24)

Specific Topic: Compliance Review Techniques (slide 8)

Specific Topic: Reasonable Accommodation (Disability) (slides 11-12)

Specific Topic: Language Assistance (slides 5 -6 , 13)

Specific Topic: Conflict Resolution

Alternate Dispute Resolution

Age discrimination referrals to Federal Mediation & Conciliation Service

State/Local Agency policies and procedures



FNS Instruction 113 (continued)

CR Training (XI) - continued

Specific Topic: Customer Service

Treating everyone with respect and dignity

Providing timely services

Approaching difficult/tense situations with self-regulation

Avoiding casual comments involving race, color, national origin, sex, age or disability

Providing complete explanations (especially if adverse action is anticipated)

Adopting & enforcing customer service as a corporate value

Rewarding or otherwise acknowledging instances of great customer service



2) General CR Responsibilities

Remember the 5 Theories of Discrimination

- Perpetuation of Past Discrimination
- Disparate Treatment
- Disparate Impact
- Accommodation
- Retaliation

Have we treated different groups differently?



2) General Responsibilities

7 CFR 247 requires SA to do certain things, and allows some discretion in execution. Some examples include:

- Conduct program outreach
- Develop a plan for providing nutrition education
- Inform applicants of rights and responsibilities
- Meet special needs of homebound elderly

Have we treated different groups differently?



Filing a Complaint of Discrimination

USDA Director, Office of Civil Rights
Room 326 W, Whitten Building
1400 Independence Avenue, S. W .
Washington, DC 20250

(202) 720- 5964

Sample Complaint Form in FNS Instruction 113,
Appendix E

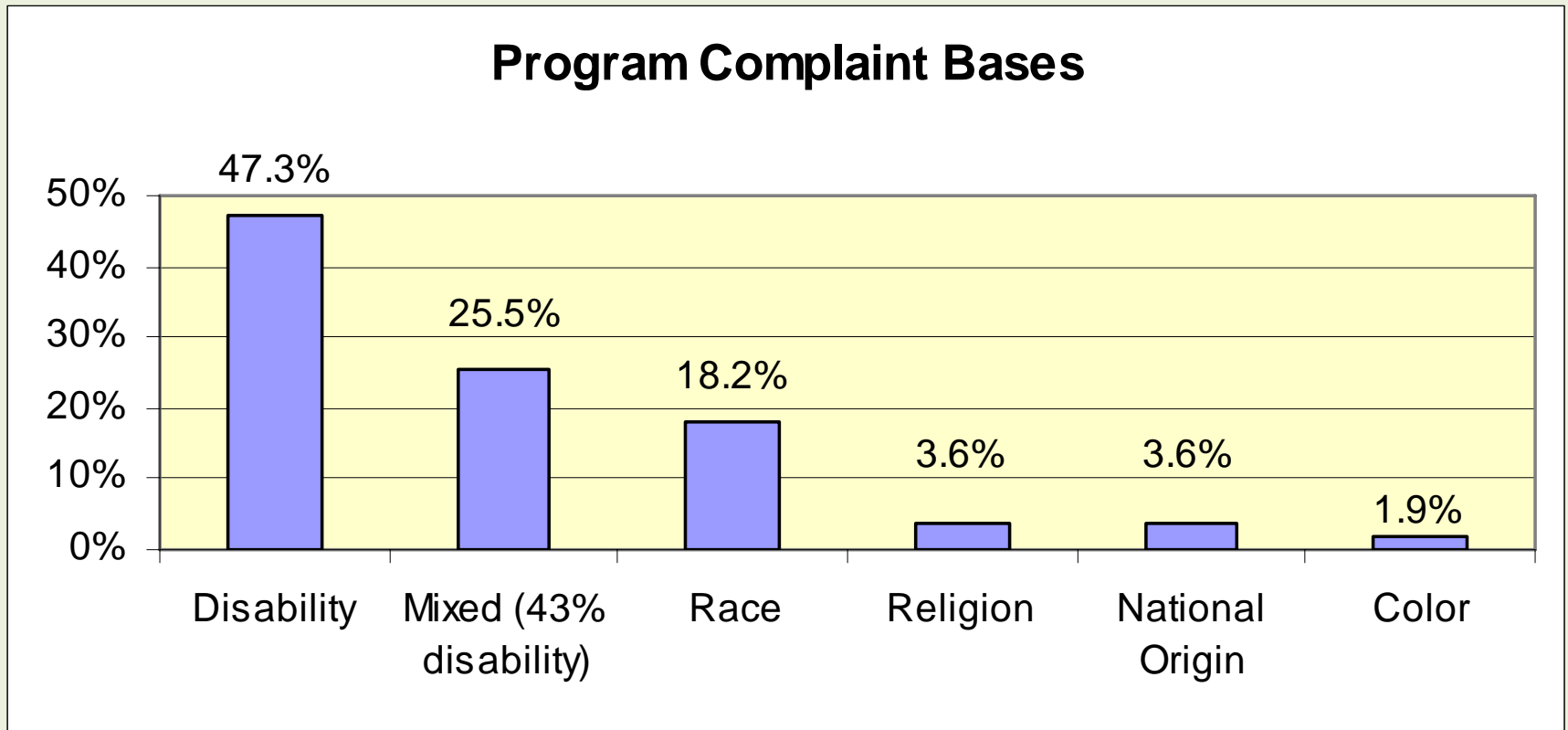


Federally-Assisted Program Complaints FY 2007

- USDA-FNS Memorandum of Understanding (MOU)
 - 90-day process
 - Average of 80 complaints per month
 - Most in FSP, WIC, NSLP
 - Denial/reduction/termination of benefits reflects appropriate application of regulation
 - Final Agency Decision (FAD) rare
-



266 Program Complaints Investigated in FY 2007



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Handling Program Complaints

- The SA denied the local agency's application after 90 days and did not provide an explanation
 - a) CR
 - b) CSFP
 - c) CR & CSFP
- The SA denied an application within 60 days on the basis of disability
 - a) CR
 - b) CSFP
 - c) CR & CSFP
- The SA denied an application after 90 days on the basis of disability
 - a) CR
 - b) CSFP
 - c) CR & CSFP

