



# Civil Rights Awareness Training

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***HAWAII DEPARTMENT OF HUMAN SERVICES***

**SNAP PROGRAM**

Focus on Food and Nutrition Services

**FNS-113-1**



# FNS Introduction

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- FNS provides children and low-income people access to food, a healthful diet, and nutrition education.
- FNS Instruction 113 is the Federal guidance to State agencies, local agencies and sub-recipients to insure nondiscrimination in all FNS funded or assisted programs.



# Federal Funding

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- Federal funding, in partnering with state and local agencies, helps one in five people in America.
- As a State agency, which receives Federal Funding, we must accept our responsibilities to monitor the work of local agencies and ensure that they also comply with Federal and State laws.

# What is FNS-113?

## What are some benefits?

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- It is not a new virus!
- It is a guide that provides instructions and standardization in the SNAP Program
- It cites authorities and regulatory changes
- It serves as a reference
- It contains appendices that provide program-specific guidance



# FNS-113 Appendices

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- A SNAP Program
- B Child Nutrition Programs
- C Food Distribution Programs
- D WIC and WIC Farmers' Market Nutrition Program (FMNP)
- E Sample Complaint Forms
- F Complaint Processing and Procedures Flowchart



# What did recent changes do?

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- Updates data collection procedures
- Adds Equal Opportunity for Religious Organizations
- Revises Complaint Handling Procedures
- Makes the 113 a Single Reference for Civil Rights Compliance and Enforcement for the SNAP Program



# Purpose

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- Establishes and conveys procedures
- Provides guidance and direction to USDA, FNS and its recipients and customers
- Ensures compliance with and enforcement of the prohibition against discrimination in all FNS programs and activities, whether federally funded in whole or not.



# AUTHORITY

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- Title VI of the Civil Rights of 1964 (color, race, and national Origin)
- Americans with Disabilities Act (disability)
- Title IX of Education Amendments (gender)
- Section 504 of Rehabilitation Act (disability)
- Age Discrimination Act (age)
- Food Stamp Act added religious creed and Political beliefs in the Food Stamp Program (currently SNAP)



# Protected bases for FNS Programs

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- Race
- Color
- National Origin (includes LEP)
- Age
- Sex
- Disability
- Religion
- Political Beliefs



# Other Protected Bases

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- While not specifically covered in USDA Policy, other Federal and State Laws add:
- Marital or family status
- Parental status
- Sexual orientation
- Genetic information

# APPLICABILITY

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FNS instruction is applicable to all programs and activities of a recipient of Federal financial assistance, whether those programs and activities are federally funded in whole or not.

# 7 BIG Issues in FNS-113

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- Training Please see <http://hawaii.gov/dhs/main/civil-rights-corner>
- L.E.P./Bilingual Services
- Religious Organizations
- Public Notification and Assurances
- Data Collection
- Complaints
- Compliance Reviews & Resolution of Non-Compliance with Civil Rights and related laws

# Civil Rights training

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- State agencies are responsible for training local agencies on an **ANNUAL BASIS**.
- Local agencies are responsible for training their sub-recipients, including “frontline staff” who interact with applicants or participants on an **ANNUAL BASIS**.



# Civil Rights Training

Specific subject matter required, but not limited to:

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- Collection and use of data,
- Effective public notification systems,
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance,
- Requirements for reasonable accommodation of persons with disabilities,
- Requirements for language assistance,
- Conflict resolution, and
- Customer service



# Limited English Proficiency (LEP)

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- LEP Definition—Individuals who do not speak English as their primary language and who have a 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 limited English proficiency.



# LEP Factors to Consider

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- Number or proportion of LEP persons served or encountered in the eligible population
- Frequency with which LEP individuals come in contact with the program.
- Nature and importance of the program, activity, or service provided by the program
- Resources available to the recipient and costs.





# Bilingual Recommendations

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- FSP rules at 7CFR Part 272.4 (b)

Require State agencies to use appropriate bilingual personnel and printed materials in areas in the State in which a substantial number of members of low-income households speak a language other than English, otherwise referred to as persons with LEP.

To determine whether a substantial number of LEP households reside in an area, current rules specify the methodology for estimating the number of LEP households and thresholds that trigger mandatory bilingual services.

# Bilingual Recommendations (con't)

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- In general, each certification office that provides service to an area containing approximately 100 single-language minority low-income households must routinely provide both bilingual certification materials and bilingual staff or interpreters
- Certification materials include the food stamp application form, change report forms, (i.e., monthly, quarterly, or change reports) and notices to the household.
- Bilingual services also are required in project areas with a total of less than 100 low-income households if a majority of those households are of a single-language minority.

# Bilingual Requirements (con't)

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- Bilingual services as described in this section must be provided for all FSP activities including, but not limited to, work requirements, electronic Benefit Transfer, outreach, and nutrition education.
- To determine the need to provide for bilingual services, State agencies are required to develop estimates of the number of low-income, single-language minority households, both participating and not participating in the program, for each project area and certification office, and use those estimates to determine whether thresholds are met. If so, bilingual services must routinely be provided in those project areas and offices.

# STOP

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- SCENARIO Limited English Proficiency
- A family comes to the SNAP Office and does not speak English. You cannot understand them and have no idea what language they are speaking. You write a note to give to the family saying that they need to return with an INTERPRETER. **NOT**
- Is this proper or should something else be done? If so, what?



# Equal Opportunity for Religious Organizations

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- Ensures a level playing field for participation of faith-based organizations and other community organizations in USDA programs.

# Equal Opportunity for Religious Organizations (con't)

Accomplished by:

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- Prohibiting discrimination on the basis of religion, religious belief, or religious character in the administration of Federal funds;
- Allowing a religious organization that participates in USDA programs to retain its independence and continue to carry out its mission, provided that direct USDA funds do not support any inherently religious activities such as worship, religious instruction, or proselytization;
- Clarifying that faith-based organizations can use space in their facilities to provide USDA-funded service without removing religious art, icons, scriptures, or other religious symbols, and
- Ensuring that no organization that receives direct financial assistance from the USDA can discriminate against a program beneficiary, on the basis of religion or religious belief.

Further information available at: <http://www.hhs.gov/fbci/>



# PUBLIC NOTIFICATION

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- All FNS assistance programs must include a public notification system.
- The purpose of this system is to inform applicants, participants, and potentially eligible persons of:
  - Program availability,
  - Program rights and responsibilities,
  - Policy of nondiscrimination, and
  - Procedure for filing a complaint.

# Civil Rights

## Elements of Public Notification

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- **Complaint Information**

Advise applicants and participants at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures (See handouts) Please see <http://hawaii.gov/dhs/main/civil-rights-corner>

- **Nondiscrimination Statement**

All information materials and sources, including web sites, used by FNS, State agencies, local agencies, or other sub-recipients to inform the public about FNS programs must contain a nondiscrimination statement. The statement is not required to be included on every page of the program web site. At a minimum the nondiscrimination statement or a link to it must be included on the home page of the program information. Please see <http://hawaii.gov/dhs/Nondiscrimination> (available in multiple languages)



# Nondiscrimination Statement

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- State or local agencies and their sub-recipients must use the following statement\*:

“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, religion, political beliefs, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S. W., Washington, D. C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY).

USDA is an equal opportunity provider and employer.”

\*DHS uses a joint USDA, USHHS, nondiscrimination statement at <http://www.hawaii.gov/dhs/main/civil-rights-corner>

## Nondiscrimination Statement (con't)

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- Minimizing the full statement
- If material is too small to permit full statement, the material will at a minimum include the statement, in print size no smaller than the text, that:

“This institution is an equal opportunity provider.”



# Nondiscrimination Statements are not required on:

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- Imprinted on items such as cups, buttons, pens, and so forth.
- Read in entirety when used in public service announcement on the radio, internet, TV, and so forth.
- Mentioning that the specific program is an equal opportunity provider is sufficient.

# Methods of **PUBLIC NOTIFICATION**

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- **Prominently display the “And Justice for All” Poster (475 B)**  
**Please see:**  
**<http://www.fns.usda.gov/cr/justice-translations/475B.pdf>**
- **Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs.**
- **Provide appropriate information in alternative formats for persons with disabilities**
- **Include the required nondiscrimination statement on all appropriate FNS and agency publications, web sites, posters and informational materials. Please see:**  
**<http://hawaii.gov/dhs/main/civil-rights-corner/Document.2007-10-11.3545>**
- **Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information.**

# Assurances

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- To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the entity to receive financial assistance will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines;
- FNS will obtain a written assurance from each State agency and will ensure that State agencies obtain assurance from local agencies, and
- A civil rights assurance must be incorporated in all agreements between State agencies and local agencies.
- Retailer and Vendor agreements must also include an assurance of nondiscrimination.

# Data Collection and Reporting (con't)

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- State agencies, local agencies and other sub-recipients are required to obtain data by race and ethnic category on potentially eligible populations, applicants, and participants in their program service area.
  
- The purpose is to:
  - Determine how effectively FNS programs are reaching potential eligible persons and beneficiaries,
    - State and local agencies should compare their participant data with potential eligible persons within their service areas.
  
    - If disparities or areas of under-representation occur, it will be necessary to investigate the causes for it. Provide additional outreach as needed.

Assist in the selection of locations for compliance reviews, and

Complete reports as required

# STOP

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- **Scenario** -- There are people living in your community who may be eligible to participate in your SNAP Program, but they are not participating.
  - What are some reasons 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 them to participate?



# Collecting and Reporting Participation Data

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- In instances where racial/ethnic data is collected online, provisions must be made for applicants/participants to self-identify. The ability to verify this data by some manner of signing a printout, etc., must be available.
- Data must be collected/retained by the service delivery point for each program as specified in the program regulations, instructions, policies and guidelines.
- Records must be maintained for 3 years
- Access restricted only to authorized personnel
- Submitted, as requested, to FNS



# Race and Ethnic Categories

## Two Question Format\*

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- **Ethnicity:**

- Hispanic or Latino
- Not Hispanic or Latino

**Race** (Select one or more)

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

\*See revised form FNA-1-1 (10-06)

# Race and Ethnic Categories (Con't)

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- State agency may have categories for race in addition to the ones required by FNS:
  - However, the additional categories must be mapped and extracted to the required categories
  - Program applicants may not be required to furnish race or ethnicity. Identification must be voluntary.
  - Visual observation will be used when the applicant does not self-identify.

# Complaints of Discrimination

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- A Civil Rights Complaint must be based on one or more of the following:

Race, Color, National Origin, Age, Sex, or Disability

- In FSP, complaints may also be based on:

Religion and Political Belief

# STOP

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- **Scenario**—A complaint is received from a SNAP office that the client's eligibility worker was rude and disrespectful during the interview.

The complaint states that the eligibility worker's tone was demeaning and generally unpleasant.

Are there civil rights issues here and if so what?

Does it make a difference if the worker and client are different races, national origins or genders?



# FSP Complaint Process

## 7 CFR Part 272.6 (c)

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- Complaints from an applicant or recipient alleging discrimination in any aspect of program administration will be accepted by the Secretary of Agriculture provided sufficient information is submitted. A complaint must be filed no later than 180 days from the date of the alleged discrimination.

# FNS Civil Rights Complaint Procedures

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- Name, address, and telephone number or other means of contacting the person alleging discrimination,
- Location and name of the organization or office that is accused of the discriminatory practices,
- Nature of the incident or action or the aspect of program administration that led the person to allege discrimination,
- Basis for the alleged discrimination (age, race, color, sex, disability, religious creed, national origin, or political belief),
  - Refer age complaints to Federal Mediation and Conciliation Services

FNS and authorized States then:

- Review and evaluate facts of investigation
- Write decision informing complainant of follow-up or closure action and provide appeal information
- Refer recommendation and seek concurrence from headquarters

# Complaints of Alleged Discrimination

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- Complainant must file complaint within 180 days from act of discrimination.
- Complaints may be verbal as well as anonymous,
- The use of a complaint form is not required for FNS complaints,
- FNS and authorized states must investigate complaints within 90 days.

# Complaint Issues

## Remaining complaint issues:

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- **Age discrimination complaints are referred to FMCS within 10 days;**
- **The parties are encouraged to resolve the issue/s at the lowest possible level, as expeditiously as possible, and**
- **If there are finding (s) of discrimination, corrective action is required.**
- **State Operations Plan must contain a description of the agency's discrimination complaint/grievance processing system.**

**For DHS please see:**

**<http://www.hawaii.gov/dhs/main/civil-rights-corner>**



# Compliance Reviews

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- To examine the activities of:
  - State agencies, local agencies and sub-recipients
- To determine their adherence with civil rights requirements.

The Civil Rights Review is a COMPONENT of the management review process that is conducted by FNS regional staff.

# Compliance Reviews (con't)

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- FNS Region review state agencies.
- State agencies review local agencies.
- Local agencies review their sub-recipients.
- State agency must report significant findings to the reviewed entity and FNS.

# Compliance Reviews (Con't)

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## 3 types of Compliance Reviews

- Pre-approval or Pre-award
- Post-award or Routine
- Special



# Pre-approval or Pre-award Compliance Reviews

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- **No Federal funds shall be made available to a State or local agency until a Pre-award Compliance Review has been conducted and the applicant is determined to be in compliance with civil rights requirements.**
- **State agencies need to conduct a Civil Rights Review before they approve a local agency for funding.**
- **Local agencies must do the same before granting funding to a sub-recipient.**

# Post-Award or Routine Compliance Review

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- CR Review is PART of the Management Evaluation (ME) Process
- The CR Review must be included in all compliance reviews conducted by FNS, State and Local Agencies.
  - By FNS staff when they review State and local agencies
  - By State Agencies when they review local agencies and sub-recipients.
  - By Local agencies when they review the sub-recipients.



## Post Award or Routine Compliance Review Content (11 areas)

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- Review of lower-level agencies;
- Data collection counts are valid;
- Data collection program records have restricted access;
- Program requirements are applied uniformly;
- Public notification;
- Complaint process
- Training;
- Non-discrimination statement usage;
- State agency is training local agencies;
- Analysis of denied applications; and
- Vendor compliance.



# Scope of State Agency Reviews of Local Agencies (8 items)

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- Eligible persons and households have an equal opportunity to participate;
- Case records are coded by race or ethnic origin;
- Offices are displaying the “And Justice for All” (475B) poster in a prominent location;
- Non-discrimination statement;
- Availability of program information to eligible persons, program applicants and participants;
- Racial and ethnic data collection, and maintenance for 3 years,
- Complaint processing; and
- Training.



# Special Compliance Reviews

Conducted by FNS when:

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- 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;
- Reports of alleged noncompliance made by other agencies, such as DOE and HHS, need to be resolved; or
- Patterns of complaints of discrimination have been documented.





# Resolution of Noncompliance

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- Definition

A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other sub-recipient.

# Contact Information

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- Office of Civil Rights  
USDA Food and Nutrition Service  
Western Region

Joe Torres, Director  
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