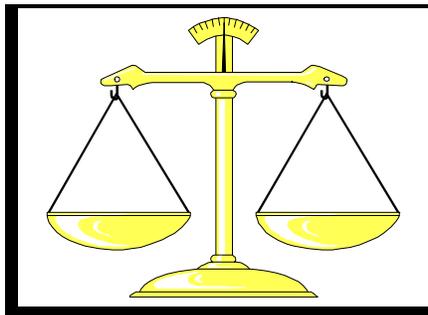


CIVIL RIGHTS



Colorado Department of Public Health and Environment
Nutrition Services/WIC Program
4300 Cherry Creek Drive South
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WIC #635
August 1996

INSTRUCTIONS FOR COMPLETING THIS MODULE

1. View the video, "Civil Rights Training Title VI." (Available from WIC supervisor or the State WIC Office.)
2. Read and study the module.
3. Take the post-test (attached to module).
4. Give completed post-test to supervisor for grading or send to your nutrition consultant at the State WIC Office.
5. All post-test scores should be sent to the State WIC Office.

ALL WIC STAFF ARE REQUIRED TO COMPLETE THIS MODULE

OBJECTIVES OF THE CIVIL RIGHTS MODULE

After completing this module, the learner will be able to:

1. Define "Civil Rights".
2. State the classes of individuals protected under the Civil Rights Act of 1964.
3. State the length of time agencies are required to maintain racial/ethnic data on file.
4. State the five designations that may be used for the collection of racial/ethnic categories.
5. Explain why it is important for WIC programs to follow Civil Rights rules and regulations.
6. Identify conditions covered by the Rehabilitation Act of 1973 and protected under the Civil Rights Act.
7. Explain how to correctly process a Civil Rights claim.
8. Assess local WIC program operations for Civil Rights compliance.
9. Recognize the following items as part of Civil Rights compliance:
 - Assurance
 - Data Collection
 - Public Notification and Outreach
 - Compliance Reviews
 - Training

"This is an equal opportunity program. If you believe you have been discriminated against because of race, color, national origin, age, sex, or handicap, write immediately to the Secretary of Agriculture, Washington, D.C., 20250"

INTRODUCTION

This module has been developed to provide training to WIC staff concerning Civil Rights in the WIC Program.

The History of Civil Rights

The history of civil rights is a history of human struggle to become humane in its treatment of its own kind. It is the rights of a people designed to protect the equal standing of an individual before his government, but primarily to protect the freedom of individuals against attacks by other persons . . .

That people may enjoy, as members of a community, a state, or a nation, life, livelihood or any natural rights . . .

Mission of the Office of Civil Rights

The primary mission of the Office for Civil Rights is to prevent and eliminate unlawful discrimination and to ensure equal treatment and opportunities for beneficiaries and potential beneficiaries of federal financial assistance provided by the USDA Food and Nutrition Service.

The Civil Rights Act of 1964

The Civil Rights Act of 1964 was a product of the growing demands of the early sixties launched by the Federal government as an attack against racial discrimination. Title VI of the Act prohibits discrimination on the basis of race, color, or national origin. This title was designed to ensure that Federal funds are spent in accordance with the Constitution. It enunciates the basic principle that Federal funds should not be used to subsidize discrimination.

SECTION 601 sets forth the basic national policy which controls the other provisions of Title VI. By its terms, discrimination on the basis of race, color, or national origin is prohibited in any program or activity receiving Federal financial assistance.

SECTION 602 is the body of Title VI. Congress intended that the procedures set forth in this section would ensure fair, consistent and flexible application of the principle of nondiscrimination. This Section directs every Federal Department or agency providing financial assistance to issue rules, regulation or orders of general applicability. Where a recipient fails to comply with such rules, informal voluntary compliance must be sought. If this is unsuccessful, an agency may effect compliance by a termination of assistance to the offending program or activity. Any action to terminate funds must be based on an express written finding of noncompliance after opportunity for a hearing and cannot be effective until 30 days after a report is filed in Congress.

SECTION 603 provides that any action taken pursuant to Section 602 is subject to judicial review.

SECTION 604 prohibits discrimination in employment practices when the primary objective of the Federal financial assistance to the recipient is to promote employment.

SECTION 605 provides for protection of existing authorities with respect to Federal financial assistance extended by contract of insurance or guaranty.

Civil Rights Components

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 prohibits discrimination on the basis of color, race and ethnic origin

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 prohibits discrimination based on sex.

SECTION 504 OF THE REHABILITATION ACT OF 1973 prohibits discrimination based on handicap.

AGE DISCRIMINATION ACT OF 1975 prohibits discrimination based on age.

EXECUTIVE ORDER 11247 IN 1965 charges the Attorney General with the responsibility of assisting Federal agencies with coordination of Title VI activities

EXECUTIVE ORDER 11764 IN 1974 charges the Attorney General with the responsibility for coordinating Title VI enforcement efforts. This supersedes Executive Order 11247.

EXECUTIVE ORDER 12250 IN 1980 empowers the Attorney General with the responsibility for coordinating compliance with:

Title VI of the Civil Rights Act of 1964
Title IV of the Education Amendments of 1972
Section 504 of the Rehabilitation Act of 1973.

This supersedes Executive Order 11764.

CIVIL RIGHTS FLOW CHART

Department of Justice (DOJ)

- ▶ Executive Order 12250
- ▶ 28 CFR 42

Department of Agriculture
Office of Advocacy and
Enterprise (OAE)

- ▶ 7 CFR 15
- ▶ Title IX Regs (15a)
- ▶ Section 504 Regs (15b)

Food and Nutrition Service (FNS)

Program
Regulations

FNS-113
Policy Instructions
113-CR Compliance

13-2 WIC	113-6-NSLP
113-3 FD	113-7 FNP
113-4 CCFP	113-8 SFSP

Civil Rights
Policies
Instructions

Region

State

Local Agency

DEFINITIONS

The following list of definitions was developed to assist in providing clarification and interpretation of the terms frequently used in day-to-day activities. Persons responsible for training and monitoring civil rights compliance should become familiar with these terms and should learn how to apply them appropriately.

1. **Applicant** - A person who submits a written application or verbally requests participation in the WIC Program.
2. **Assurance** - A contractual agreement in which a State or Local agency legally agrees to administer a WIC Program in accordance with the civil rights laws, regulations, and FNS Instruction 113-2, Rev 1.
3. **Bilingual Capability** - Appropriate bilingual services and/or program materials available to limited or non-English communicating persons that will ensure equal opportunity for participation in the program by eliminating any communication or information barriers.
4. **Categorical Ineligibility** - Persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, infants or children.
5. **Civil Rights and Equal Employment Opportunity (CR) Division** - The entity within the Food and Nutrition Service (FNS) that develops and coordinates the civil rights compliance program and activities of the Agency.
6. **Civil Rights Laws and Regulations** - Title VI of the Civil Rights Act of 1964 and other authorities as outlined in Section II of the FNS Instruction 113-2, Rev. 1 (Civil Rights Compliance and Enforcement in the Special Supplemental Food Program for Women, Infants and Children and the Commodity Supplemental Food Program).
7. **Clinic** - The facility where participants are certified for the WIC Program. For data collection purposes, all satellite clinics shall be considered part of the parent clinic facility.
8. **Complainant** - Any person or groups or persons that allege discrimination in the delivery of program benefits and services.
9. **Complaint** - A verbal or written allegation of discrimination which indicates that any WIC program is administered or operated in such a manner prohibited by the Civil Rights Laws and Regulations.
10. **Compliance Work Plan** - An annual written plan and schedule of compliance reviews to be conducted in the coming fiscal year including the work years to be allocated to the review activity and civil rights training plans.

11. **Discrimination** - Any distinction of one person or a group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, national origin, age, sex, or handicap.
12. **Federal Assistance** - Any funding, property, or aid which is provided for the purpose of providing program benefits to participants.
13. **Fiscal Year** - The period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following calendar year.
14. **Food Vendor/Distribution Site** - The place in which WIC Program foods are delivered to participants or the entity delivery food, including warehouses, home delivery companies, and food retailers.
15. **Grassroots Organization** - Any organization at the local level which interacts with potential or actual participants, particularly minorities and women, such as a community action program, civic organization, migrant group, church, neighborhood council, local chapter of the National Association for the Advancement of Colored People, or other similar group.
16. **Investigation** - Formal gathering of facts/information by the Office of Minority Affairs (OMA) that will refute or substantiate an allegation of discrimination.
17. **Local Agency** - Those entities as defined for the WIC Program under "local agency" in 7 CRF 246.2.
18. **Management Evaluation (ME)** - An evaluation procedure used to determine if State agencies and local agencies are administering and operating FNS programs in accordance with program and civil rights regulations and requirements.
19. **Minority** - A person or group of persons belonging to the protected classes covered by Title VI of the Civil Rights Act of 1964 and later specified by the Office of Management and Budget (OMB) to include:
 - A. American Indian or Alaskan Native
 - B. Asian or Pacific Islander
 - C. Black (Not of Hispanic Origin)
 - D. Hispanic
20. **Nutritional Risk** - Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements; other documented nutritionally related medical condition; dietary deficiencies that impair or endanger health; or conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.

21. **Noncompliance** - The finding that any civil rights requirement as interpreted by FNS Instruction 113-2, Rev 1 and program regulations has not been satisfied.
22. **Office of Minority Affairs (OMA)** - The organizational unit under the Secretary of Agriculture reporting to the Assistant Secretary for Administration that has authority to develop and administer a comprehensive program to assure equal opportunity for all persons in all aspects of USDA programs under civil rights laws and regulations. Formerly the Office of Equal Opportunity (OEO).
23. **Participants** - Those persons to whom assistance, services, or benefits are provided by the WIC Program.
24. **Postaward Compliance Review** - A civil rights review that is conducted as a routine part of the ME or local monitoring reviews to determine civil rights compliance. These may also be special indepth reviews as determined by civil rights problems.
25. **Potential Beneficiaries/Participants** - Those persons who may be eligible to receive WIC Program benefits and services but have not applied.
26. **Preaward Compliance Review** - A desk review of specific civil rights information submitted by a State or local applicant agency with the application for Federal financial assistance. The review and approval of the information must take place before the application is approved for program operation.
27. **Preliminary Inquiry** - An informal gathering of information that will refute or substantiate an allegation of discrimination.
28. **Primary Recipient** - Any State agency, local government, State agency subdivision, entity, organization, or corporation that receives Federal assistance directly from FNS, and either extends those funds to another recipient for the purpose of carrying out a program, or expends those funds directly in carrying out a program.
29. **Program** - The Special Supplemental Food Program for Women, Infants, and Children (WIC).
30. **Program Applicant Agency** - Any agency which submits a request or plan for FNS approval to administer the WIC Program.

31. **Racial/Ethnic Categories** - The designation of participants or potential participants by race, color, or national origin for the collection and reporting of racial/ethnic data as follows:
- A. American Indian or Alaskan Native - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition (includes Aleuts and Eskimos).
 - B. Asian or Pacific Islander - A person having origins in any of the original peoples of the Far East, Southeast Asia, and Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
 - C. Black (Not of Hispanic Origin) - A person having origins in the Black racial groups of Africa.
 - D. Hispanic - A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
 - E. White (Not of Hispanic Origin) - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
32. **Secondary Recipient** - Any agency receiving Federal assistance through an intermediary, such as a primary recipient. (For example: a local WIC agency)
33. **State Agency** - Those entities as defined for the WIC Program under "State Agency" in 7 CFR 246.2.
34. **Supplemental Food Programs (SF) Division** - An entity of the Food and Nutrition Service, USDA, through which Federal Funds are provided to State Health Departments or comparable State agencies for administering the WIC Program.

THE CIVIL RIGHTS PROGRAM IN THE FOOD AND NUTRITION SERVICE

Food and Nutrition Services (FNS) is responsible for administering its food assistance programs to ensure equal opportunity for participation. There may be no barriers to participation because of:

- Race
- Color
- National Origin
- Age
- Sex
- Handicap

Religious creed and political beliefs are not included in the Title VI Civil Rights program, but are covered by the Food Stamp Act. The four specific civil rights programs that give the authority for civil rights are:

- ▶ Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, or national origin.
- ▶ Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex.
- ▶ Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability.
- ▶ The Age Discrimination Act of 1975 which prohibits discrimination on the basis of age.

A checklist of Civil Rights Requirements and Responsibilities for each of these four Acts or Amendments is listed in the Appendix section.

Without civil rights rules and regulations, certain individuals could be discriminated against; situations might occur that inhibit participation in the WIC program such as:

- ▶ Lack of information about the WIC program
- ▶ Different client treatment during application
- ▶ Lack of bilingual information or personnel at clinic sites
- ▶ Clinic site locations that are difficult to reach for minorities or disabled persons

Enforcement of civil rights rules and regulations ensures that the above discrimination does not occur. Title VI of the Civil Rights Act requires that certain things must be in place to ensure that program benefits are reaching those to whom they are intended to reach. State agencies are required to have the following:

- ▶ A signed assurance agreement
- ▶ A public notification system
- ▶ A method to collect racial data
- ▶ A method to process complaints
- ▶ A way to monitor the program
- ▶ On-going training plans

Each of these areas will be discussed. A summary of the State and Local WIC Agency Civil Rights Requirements within each of these six areas is listed in the Appendix section.

Assurance Agreements:

An assurance agreement is a pledge, a contract, a statement of intent that is signed by the WIC State office before receiving federal funds. This assurance states that the WIC program will comply with all civil rights rules, and that regulations will be followed in allocating funds to local agencies without regard to race, color, national origin, age, sex, or handicap. The state office renews this agreement annually.

The State WIC office also is required to compile and collect data, maintain records, submit reports as required, and agree to permit the effective enforcement of the Civil Rights Act of 1964. The agreement also states that authorized USDA personnel will have access to records, data, and accounts as needed during normal working hours to ascertain compliance.

Local WIC agencies have the same responsibilities for compliance and monitoring as the State office. Civil rights assurance agreements were signed by each local agency at the time a WIC program started, and this agreement is renewed annually. Monitoring of local agency compliance to civil rights rules and regulations occurs during bi-annual program monitorings. This will be discussed more fully in the "Civil Rights Compliance Review" section.

Public Notification System:

A public notification system is a way of informing applicants and participants, and especially the non-English speaking of their rights and responsibilities associated with receiving and applying for benefits. Agencies are required to advise individuals of where to file a complaint if an individual feels he or she has been discriminated against while receiving or applying for WIC program benefits. The non discrimination policy must be in a prominent place and must state in essence that: "This is an equal opportunity program. If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of Agriculture, Washington, D.C. 20250." This statement should appear on the following:

- newsletters
- leaflets
- pamphlets
- bulletins
- radio/television announcements

The State WIC office's requirements for public notification are to:

- A. Use forms of communication such as letters, leaflets, brochures, bulletins, newspapers, and radio and television announcements to disseminate Program information and applicable civil rights requirements to the general public with emphasis on minorities and minority organizations. Information distributed to the public shall inform participants and applicants, particularly minorities, women, and grassroots organizations, of any significant Program changes, such as revisions in eligibility standards, benefits and services, and the location of new local agencies, or clinics, as well as hours of service. Local agencies that have reached maximum participation may choose to further inform potential applicants of the waiting lists and the priority system for filling vacant slots as they arise.
- B. Use photographs and other graphics to display participants of different races, colors, national origins, ages, sexes, and handicaps on Program-related information which conveys the message of equal opportunity.
- C. Provide information and other materials such as applications, eligibility criteria and procedures for delivery of benefits in languages other than English, as needed.
- D. Include a statement that the Program is available to eligible persons without regard to race, color, national origin, age, sex or handicap on all FNS and recipient publications, posters, etc. The statement shall be in a prominent place on each publication and in bold type print.
- E. Ensure that local agencies and clinics follow public notification requirements by:
 - Displaying the nondiscrimination poster, "And Justice For All," or an FNS approved poster in as many places and numbers as appropriate.
 - Providing bilingual services to the non-English speaking or those with limited English speaking skills. Services could be provided by staff, volunteers, or other translation resources.
 - Making available Program regulations and guidelines to the public upon request. At initial visits applicants should be given information pertinent to their participation in WIC.
 - Providing participants and applicants access to civil rights information. This includes information and procedures for filing complaints, program specifics, and rights and responsibilities of participants and applicants.

Data Collection:

The State WIC office ensures that racial/ethnic beneficiary data are collected and maintained on file for three years for all local WIC agencies. This data includes the number of actual participants and the estimated number of potential eligible participants by racial/ethnic category. State agencies and the federal government use the data during routine compliance reviews to determine how effectively the Program is reaching potential eligible participants, identify areas where additional outreach is needed, and assess compliance with the Title VI Civil Rights Act of 1964. Local agencies are encouraged to use the racial/ethnic data for their internal civil rights monitoring.

A valid governmental need for this information does not constitute an invasion of any legal privacy right. Even if the laws of some states prohibit recording racial information, under the Supremacy Clause of the U.S. Constitution, local law must in these instances give way to the Federal policy. The collection of racial and ethnic data promotes the equitable distribution of Federal assistance; it is consistent with Federal laws which ensure that those to whom the Program is intended are getting their fair share.

For collection purposes a participant may be included in the group to which he/she appears to belong, identifies with, or is regarded in the community as belonging. Participants may be asked to self-identify their racial group only after the purpose for data collection has been explained, and the participants understand that the collection of this information is for statistical reporting requirements only and has no effect on the determination of their eligibility to participate in the Program. This data is essential both in establishing the existence of discrimination and in establishing compliance with laws barring discrimination.

The Department of Justice establishes the designation of race, color or national origin. Only the following designations may be used for the collection of racial/ethnic categories:

1. American Indian or Alaskan Native A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition (includes Aleuts and Eskimos).
2. Asian or Pacific Islander A person having origins in any of the original peoples of the Far East, Southeast Asia, and Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
3. Black (Not of Hispanic Origin) A person having origins in the Black racial groups of Africa.
4. Hispanic A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
5. White (Not of Hispanic Origin) A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Discrimination Complaint Processing:

In the event that a participant alleges denial of benefits due to discrimination on the basis of race, color, national origin, sex, age or handicap, the complaint would be forwarded through the Supplemental Food Programs Division in Washington, D.C., to the Director, Civil Rights Division, Food and Nutrition Services, United States Department of Agriculture, Alexandria, Virginia 22302, with a copy to the Regional Office.

Specific procedures for local agency use on the handling of all civil rights complaints are:

A. Right To File A Complaint: Any person alleging discrimination based on race, color, national origin, sex, age, or handicap has a right to file a complaint within 180 days of the alleged discriminatory action.

B. Acceptance: All civil rights complaints, written or verbal, shall be accepted and forwarded to the Secretary of Agriculture, Washington, D.C., 20250. Information should be sufficient to determine the identity of the agency or individual toward which the complaint is directed, and to indicate the possibility of a violation. Anonymous complaints shall be handled as any other complaint.

C. Verbal Complaints: In the event a complainant makes the allegations verbally or through a telephone conversation and refuses or is not inclined to place such allegations in writing, the person to whom the allegations are made shall write up the elements of the complaint for the complainant. Every effort shall be made to have the complainant provide the following information:

1. Name, address, and telephone number of the complainant or other means of contacting the complainant.
2. The specific location and name of the entity delivering the service or benefit.
3. 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 which is alleged to have a discriminatory effect on the public or potential and actual participants.
4. The basis on which the complainant feels discrimination exists (race, color, national origin, age, sex, or handicap).
5. The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.
6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

D. Copies of complaints: In addition to sending the complaint to the Secretary of Agriculture, one copy should be kept in the local agency's civil rights file and another copy sent to the attention of the State Office Civil Rights Coordinator at the State WIC Office.

In addition to the above requirements, USDA recommends that State agencies should do the following:

1. Designate a person at the State and local level to be responsible for discrimination complaints.
2. Publicize the fact that person has been given the responsibility to act on complaints. Both employees and program participants should know who that person is.
3. Give the designated person authority to forward all complaints received to the USDA.
4. Establish complaint logs to be maintained both at the State and local level according to regulations and guidelines. The use of complaint logs, however, is not prerequisite for acceptance of a complaint.
5. Inform all employees of what to do when a discrimination complaint is filed.
6. Understand that it is the basic right of any individual to appeal any adverse action or have an avenue to or recourse to deal with unfair treatment.

Title VI complaints are sometimes confused with equal opportunity or affirmative action complaints. Although both came into existence as a result of the Civil Rights Act of 1964, equal employment opportunity complaints relate to matters surrounding employment. Title VI is concerned with services or benefits.

Compliance Reviews:

Civil rights compliance reviews are conducted to determine whether the State and Local agencies are adhering to civil rights requirements. Preaward compliance reviews are conducted reviewing local agency applications to ensure that:

1. The local agency has corrected all past substantiated civil rights problems or noncompliance situations.
2. The Civil Rights Assurance is included in the State-Local agency agreement.
3. Civil rights complaints are being handled in according to the Discrimination Complaint Processing procedures listed above.

4. Clinic sites, certification offices, vendors, and other food distribution sites do not deny access to any person because of his or her race, color, national origin, age, sex, or handicap.
5. Appropriate staff, volunteers or other translation resources are available in areas where a significant proportion of non-English or limited English speaking persons reside.
6. The description of the racial/ethnic makeup of the service area is included in the application.

Routine compliance reviews of local agencies are conducted during bi-annual Program monitorings. The following items must be determined as minimum:

1. Do all persons have equal opportunity to participate in the Program regardless of race, color, national origin, age, sex or handicap?
2. Have case records been coded by racial/ethnic origin?
3. Has the local agency conducted civil rights training for its staff?
4. Are project areas displaying the USDA nondiscrimination poster or an FNS-approved poster?
5. Is Program information being provided to applicants, participants, grassroots organizations or similar minority groups?
6. Is the nondiscrimination statement being included on all printed materials such as applications, pamphlets, forms or any other materials distributed to the public?
7. Is racial/ethnic data being collected by actual count and maintained on file for three years?
8. Are civil rights complaints being handled in accordance with procedures outlines in the Discrimination Complaint Processing section above?

Each local WIC agency is required to maintain a Civil Rights file that contains the following:

1. The Colorado Civil Rights Study Guide/Module.
2. Any Civil Rights correspondence from the State Office.
3. Documentation of any Civil Rights training obtained through the local agency.
4. Complaint handling procedures.
5. FNS Instruction 113-2.
6. Documentation of all civil rights complaints and actions.

Resolution of Non-Compliance

The results of the routine compliance review will be written up as a part of the monitoring summary. Probable noncompliance is a factual finding as a result of a review or other type of monitoring process that any civil rights requirements in the Department of Justice or USDA regulations, or FNS Instruction 113-2 is not being adhered to by an individual or an agency. Once probable noncompliance is found, steps will be taken immediately to obtain voluntary compliance. If corrective action has not been completed within 60 days of the finding a report of findings of non-compliance shall be submitted through the Food and Nutrition Service Regional Office to the Civil Rights Division. The Civil Rights Division will forward the report to the Office of Minority Affairs for transmittal to the Department of Justice.

Examples of Discrimination: Discrimination is prohibited in all aspects of the delivery of program benefits. Some specific examples of discrimination and noncompliance are as follows:

1. Exclusion of eligible persons from participation in the Program on the basis of race, color, national origin, age, sex, or handicap.
2. The inequitable allocation of food to eligible persons on the basis of race, color, national origin, age, sex, or handicap.
3. Issuance of food instruments or delivery of foods in a place, time, or manner that results in, or has the effect of, denying or limiting the benefits on the basis of race, color, national origin, age, sex, or handicap.
4. Segregation of persons in clinic waiting rooms or through the appointment system.
5. The selection of local agencies for participation in the Program which has the effect of, or results in limiting the availability of the Program benefits of services on the basis of race, color, national origin, age, sex, or handicap.
6. Failure to apply the same eligibility criteria to all potential eligibles seeking participation in the Program.
7. Certification of potential eligibles as eligible to receive Program benefits solely on the basis of race, color, national origin, age, sex, or handicap.
8. Maintenance of a waiting list which makes distinctions on the basis of race, color, national origin, sex, age, or handicap.

Achieving voluntary compliance: Once probable noncompliance is determined, steps shall be taken immediately to obtain voluntary compliance. The effective date of the finding of probable noncompliance is the date of the compliance review or inquiry. The following action shall be taken *by the State agency* to achieve voluntary compliance:

1. Give immediate notice to the Local agency indicating the terms of noncompliance and the action required to correct the situation.
2. Submit to the Regional Administrator, Form DOJ-453, with appropriate documentation attached, on all cases where corrective action has not been completed within 60 days of the finding. The documentation shall include the following:
 - a. List of available witnesses, their addresses, and official titles, with a brief statement of the matter about which they can testify.
 - b. Relevant contracts, assurances, and agreements between the State agency and the local agency.
 - c. List of names, titles, office mailing addresses, and office telephone numbers of parties involved.
 - d. A brief statement of the allegations of discrimination which can be factually supported.
 - e. A statement of all actions to achieve voluntary compliance.

Civil Rights Training:

In order for monitoring of any phase of Program operations to be effective, those persons carrying out the monitoring function must be thoroughly familiar with all applicable requirements and understand the proper procedure to be followed in implementing the phase of operations they are reviewing. Proper compliance with civil rights requirements often is harder to pinpoint than other phases of Program operations. For this reason it is extremely important that those persons responsible for monitoring civil rights compliance receive training to assist them in performing their review responsibilities. This training should be carried out as part of ongoing technical assistance.

The State WIC office is responsible for training Local agency staff in the following areas of civil rights compliance:

1. Collecting and using racial/ethnic data
2. Effective public notification systems
3. Complaint procedures
4. Review techniques
5. Resolution of non-compliance, including development of an action plan

Each and every one of us has a responsibility to ensure that the intent of the Civil Rights Act of 1964 is a reality. We must continue our efforts to protect the rights of others who are eligible for Program benefits. This effort is not headline items, but daily events brought about by racial, ethnic and cultural changes in our communities. The struggle against discrimination and unfair treatment for all must continue. A 1970 Supreme Court decision stated that "government is the social organ to which all in our society look for the promotion of liberty, justice, fair, and equal treatment and the statue of worthy norms and goals for social conduct." Under these laws we have both the moral and legal obligation to become aware of the rights and responsibilities assigned to us.

Questions and Answers

- Q. Does the definition of handicapped person include children with allergies, food intolerances, and obese children?
- A. **Children with the above conditions are generally not considered as handicapped unless the child's condition substantially limits one or more major life activity. The same is true for children with broken bones, sprains, concussions, appendicitis, etc. These are *temporary* conditions and are not covered under the American's with Disability Act.**
- Q. Do the regulations require Local agencies to have volunteers or staff available to interpret for the hearing impaired?
- A. **The regulations require that handicapped persons be afforded an equal opportunity to participate in all FNS programs and activities and that all barriers to participation be eliminated. This could be accomplished by having volunteers or staff interpret for the hearing impaired, or providing all Program information and communication in written form.**
- Q. Are local agencies required to accommodate handicapped persons in the manner the person describes?
- A. **Agencies are required to make *reasonable* accommodation to the known physical or mental limitations of applicants and participants unless the agency can demonstrate that the accommodation would impose an *undue hardship* on the operation of its Program.**
- Q. If the facilities at local agencies are not currently equipped for wheelchairs, what accommodations can be made for handicapped persons?
- A. **If structural changes are not viable, WIC Program benefits can be provided by other means such as:**
- home visits
 - mail-in applications and telephone interviews
 - referral to alternate accessible sites
 - designation of proxies
- Q. Does WIC discriminate on the basis of age and sex when children over 5 are terminated, and men are not eligible for the program?
- A. **No. Section 17 of the Child Nutrition Act of 1966, as amended, defines the purpose of the WIC Program to provide benefits specifically to *pregnant women, breastfeeding women, postpartum women, infants, and children of certain age limitations*. Therefore the eligibility determination according to age and sex in itself is not a violation of the civil rights laws. The priority criteria in determining applicants' nutritional risk may also be justified.**

APPENDIX SECTION