

Chapter Nine

Civil Rights and Non-Discrimination

Overview

Policy

The Arizona WIC Program and its contractors will not discriminate in hiring or providing services. Eligible applicants will be hired or served without regard to race, color, national origin, sex, age or disability.

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 or lack of actions based on their protected bases.”

During orientation, all new WIC staff members will be instructed on Civil Rights and ADA, and annually thereafter.

Note: The State’s policy for reasonable accommodation is in accordance with the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, dated April 1994.

In This Chapter

This chapter is divided into five (5) sections and one (1) appendix, which detail State and Local Agency responsibilities regarding civil rights and discrimination, training, and procedures of complaints.

Contents

Section	Title	Page Number
A	State Agency Responsibilities	9-2
B	Local Agency Responsibilities	9-5
C	Handling of Complaints	9-7
D	Civil Rights/ADA Training	9-9
E	Civil Rights Statements	9-11
Appendix A	Complaint of Discrimination Form	9-14

Section A State Agency Responsibilities

Contract Statement

The State Agency will ensure that the Civil Rights and ADA assurance statement is in Local Agency contracts.

Training

The State Agency is responsible for the compliance training of Local Agency WIC Directors regarding Civil and American Disabilities Act (ADA) Rights.

The State Agency will designate staff to enforce Civil Rights and ADA regulations.

Title VI

Applicants and WIC participants will be provided access to Title VI information and WIC regulations upon request.

Non-Discrimination Services

The Arizona WIC Program will provide applicants with key information in languages other than English, as needed. These materials include applications and information describing eligibility criteria, non-discrimination policies, and procedures for delivery of benefits.

Notice Requirements

The Arizona WIC Program will require Local Agencies to include the non-discrimination policy statements, Civil Rights and ADA complaint procedures on all outreach materials, such as program information letters, brochures, bulletins, and newspaper, TV, and radio ads.

The Arizona WIC Program will require the “And Justice for All” poster to be prominently displayed within viewing range of participants (i.e., clinic waiting areas), and warehouse distribution centers, which will be monitored during Management Evaluations.

Posters may be ordered from the State warehouse.

Continued on Next Page

Section A

State Agency Responsibilities (Continued)

Monitoring

The State Agency will monitor Local Agencies' compliance with Civil Rights and ADA requirements through periodic reports which detail enrollment by ethnicity and race.

During Management Evaluations, files of those determined to be ineligible for WIC services and those placed on the waiting list for services will be reviewed.

The State Agency will maintain complete and thorough records of all activities to monitor Civil Rights and ADA compliance and any known complaints of discrimination made by WIC applicants or participants.

Non-compliance Notification

Areas determined to be in non-compliance during a Management Evaluation will be:

- Discussed with the appropriate Local Agency staff during the exit interview.
 - Identified in a written report, sent by certified mail with return receipt requested. The report must be sent within 45 calendar days from the State Agency to the Local Agency.
 - The report will:
 - Request corrective action to be taken within 30 calendar days of initial findings
 - Request a written response from the Local Agency within 30 calendar days. The response will assure implementation of specific methods, according to a time line, to bring the program into compliance
 - Offer technical assistance from the State Agency and/or State Affirmative Action Officer where appropriate
-

Continued on Next Page

Chapter Nine

Civil Rights and Non-Discrimination

Section A

State Agency Responsibilities (Continued)

Non-compliance to Compliance

The State Agency will conduct follow-up reviews within 30 calendar days of the initial Management Evaluation to ensure that the program has been brought into compliance.

If voluntary compliance is not achieved by the Local Agency within 30 calendar days, notification and copies of all correspondence and documentation will be sent to the USDA Western Regional Office. This documentation will include the following:

- Relevant contracts, assurances and agreements between the State Agency and the Local Agency
 - List of names, titles, office mailing addresses and office telephone numbers of the parties involved
 - List of available witnesses, their official titles, addresses, and a brief statement of the matter(s) about which they can testify
 - A statement of all actions to achieve voluntary compliance
-

Section B

Local Agency Responsibilities

Training

Local Agencies will:

- Ensure that all new staff members receive training regarding Civil Rights and ADA during their orientation
 - Ensure that, annually, all staff will attend training on Civil Rights and ADA issues
-

Language, Cultural and Disability Needs

Bilingual staff and/or translation resources will be available in areas where a significant proportion of non-English speaking clients reside.

Information will be provided regarding rights, obligations, and requirements of the WIC Program in the applicant's/participant's language.

Rights and obligations listed on the Certification form will be read to, or read by, the applicant in the appropriate language.

Nutrition education will meet the different cultural and language needs of program participants.

Handicapped applicants and participants will have access to WIC clinics and services.

Written Procedures

Local Agencies will annually review all written procedures on providing WIC services to eligible participants to ensure compliance with Federal Regulations and the general provisions of the contract.

Outreach

Local Agencies will conduct outreach to migrants and homeless persons, as well as advocacy groups, associations and organizations that work with minority groups.

Continued on Next Page

Chapter Nine

Civil Rights and Non-Discrimination

Section B

Local Agency Responsibilities (Continued)

Data Collection

Local Agencies will collect accurate racial/ethnic data on participants by:

- Explaining that the collection of this information is strictly for statistical reporting requirements and has no effect on the determination of their eligibility to participate in the program.
- Asking participants to self-identify their ethnicity as Hispanic or non-Hispanic, and their racial group(s) as American Indian or Alaskan Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, White. Applicants can choose as many races as are appropriate.
- Country of origin or nationality should not be asked of applicants.
- Self-declaration at the time of initial Certification is the preferred method of obtaining this data. If, after being asked to self-declare, the applicant does not provide the information, the WIC staff member is to select the race "White" and "Client Refused, Observed by Staff." The choice "White" as the race has been made the default (automatic choice) for situations such as described above.
- This data only needs to be collected at initial Certification.

Compliance/ Complaints Records

Local Agencies will maintain complete and thorough records of all activities to monitor Civil Rights and ADA compliance and any known complaints of discrimination made by WIC applicants or participants.

Section C Handling of Complaints

Complaints

Complaints of discrimination based on race, color, national origin, sex, age, or disability will be handled by State or Local Agency WIC staff, as appropriate.

Right to File

Any person or representative alleging discrimination based on a protected basis has the right to file a complaint within 180 days of the alleged discriminatory action. Only the Secretary of Agriculture may extend this time frame under special circumstances. The complainant must be advised of confidentiality and Privacy Act applications. The complainant and the entity that the complaint is filed against will be encouraged to resolve the issue at the lowest possible level and as expeditiously as possible.

Filing Complaint

Persons seeking to file a complaint of discrimination may file with the:

USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish)

Note: Assistance in filing a complaint of discrimination may be provided by:

- ADHS Director, 150 North 18th Avenue, Phoenix, AZ 85007
-

Offer Assistance

The State or Local Agency staff will volunteer assistance to the applicant or participant in making a written or verbal complaint. This assistance, if accepted, will be provided the same day as the complaint is made.

Complaint Documentation

WIC Staff will ensure all complaints received are documented on the Complaint of Discrimination form. Every effort will be made to have the following information:

- Name, address, and telephone number or other means of contacting the person alleging discrimination
- The location and name of the organization or office and individual that is accused of the discriminatory practices
- The nature of the incident or action or the aspect of the program administration that led the person to allege discrimination
- The basis for the alleged discrimination (race, color, national origin, sex, age, or disability). Refer any age complaints to Federal Mediation and Conciliation Services
- Date complaint filed and with whom

Note: A complainant does not have to identify him or herself; however, a name is required when completing the “Complaint of Discrimination” form. Please see the Consent/Release Form for more details.

Continued on Next Page

Section C

Handling of Complaints (Continued)

Tracking of Complaints

Document all activities regarding the complaint, such as information or assistance given to the complainant and all information relating to the complaint:

- Maintain a case file of each complaint
 - Keep complainant informed of all actions taken
 - Provide complainant a copy of the complaint and encourage retention of their copy
-

Notification

The Arizona WIC Director will be notified within 48 hours upon receipt of a complaint. Within 15 calendar days, the Program Integrity Manager will submit a written record of the complaint(s) to the ADHS Director.

The Program Integrity Manager, or designated staff, will immediately notify the Director, Office of Civil Rights, Washington, D.C. 20250 of any alleged discrimination based on race, color, national origin, sex, age, or disability.

Consultation

The State Affirmative Action Office will provide consultation and technical assistance to Local Agencies in order to avoid and/or eliminate discriminatory practices.

Section D Civil Rights/ADA Training

Subjects Covered

Subjects to be covered in Local Agency WIC Directors training:

- Collecting and using ethnic/racial 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
- Customer service

Note: All training will be based on FNS Instruction 113-1

References

The State Agency will keep on file all of the following:

- FNS Instruction 113-1
 - Title VI (1964), 7 CFR 15
 - Title IX, USDA Administrative Regulations
 - Title IX, Education Amendments, 7 CFR 15a (gender discrimination)
 - Title 28, Department of Justice Regulations
 - Section 504, Handicap Regulation 7 CFR 15b
 - Memorandum on Legality of Racial/Ethnic data collection
 - Grassroots Organization Directory
 - Age discrimination Act of 1975, 7 CFR 15c
-

Chapter Nine

Civil Rights and Non-Discrimination

Section E

Civil Rights Statements

Civil Rights Statement English

Per the USDA, as of February 2011, the authorized statement reads as follows:

“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 Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.”

If the material is too small to permit the full statement to be included, 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.”

A civil rights statement is not required to be imprinted on items such as cups, buttons, magnets, and pens that identify the WIC Program, when the size or configuration make it impractical.

Nutrition education and breastfeeding promotion and support materials that strictly provide a nutrition message with no mention of the WIC Program are not required to contain the non-discrimination statement.

**Civil Rights
Statement
Spanish**

“De acuerdo con la ley federal y las políticas del Departamento de Agricultura de los EE.UU. (USDA, sigla en inglés), se le prohíbe a esta institución que discrimine por razón de raza, color, origen, sexo, edad, o discapacidad.”

“Para presentar una queja sobre discriminación, escriba a USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, o llame gratis al (866) 632-9992 (voz). Personas con discapacidad auditiva o del habla pueden contactar con USDA por medio del Servicio Federal de Relevos (Federal Relay Service) al (800) 845-6136 (español) o (800) 877-8339 (inglés). USDA es un proveedor y empleador que ofrece oportunidad igual para todos.”

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

“USDA es un proveedor que ofrece igualdad de oportunidad a todos.”

Chapter Nine

Civil Rights and Non-Discrimination

Appendix A: Complaint of Discrimination & Complaint Consent/Release Forms

See Following Pages

Complaint of Discrimination

The purpose of this form is to assist you in filing a complaint. All sections must be completed.

State your name and address:

Name: _____

Address: _____

Telephone No.: Home: () _____ Work: () _____

Person(s) discriminated against, if different from above:

Name: _____

Address: _____

Telephone No.: Home: () _____ Work: () _____

Agency and department or program that discriminated:

Name: _____

Any individual if known: _____

Address: _____

Telephone No.: () _____

To your best recollection, on what date(s) did the alleged discrimination take place?

Do you have any other information that you think is relevant to our investigation of your allegations?

We cannot accept a complaint if it has not been signed. Please sign and date this complaint form below.

Signature Date

We will need your consent to disclose your name, if necessary, in the course of any investigation. Therefore, we will need a signed Consent Form from you. (If you are filing this complaint for a person whom you allege has been discriminated against, we will, in most instances, need a signed Consent Form from that person.) See the Notice about Investigatory Uses of Personal Information for information about the Consent Form. Please mail the completed, signed Discrimination Complaint Form and the signed Consent Form (please make one copy of each for your records) to:

**USDA Director, Office of Civil Rights
1400 Independence Avenue, S.W.,
Washington, D.C. 20250-9410**

Call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish)

COMPLAINANT CONSENT/RELEASE FORM

Your Name: _____

Address: _____

Please read the information below, **initial the appropriate space**, and **sign and date** this form on the lines at the bottom of this form.

I have read the Notice of Investigatory Uses of Personal Information by the USDA, Food and Nutrition Service (FNS). As a complainant, I understand that in the course of a preliminary inquiry or investigation, it may become necessary for FNS to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of FNS to honor requests under the Freedom of Information Act. I understand that it might be necessary for FNS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by non-discrimination statutes enforced by the Federal government.

CONSENT/RELEASE

_____ (Initial if you give consent) **CONSENT GRANTED –**

I have read and understand the above information and authorize FNS to reveal my identity to persons at the organization or institution under investigation and to other Federal agencies that provide Federal financial assistance to the organization or institution or also have civil rights compliance oversight responsibilities that cover that organization or institution. I hereby authorize FNS to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, applications, case files, personal records, and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

_____ (Initial if you give consent) **CONSENT DENIED –**

I have read and understand the information and do not want FNS to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, and may result in the investigation being closed.

Signature Date