

Section II: Local Agency Procedure Manual

XI. Local Civil Rights

A. Civil Rights/Non-discrimination and Complaints

Purpose

To ensure that the Montana WIC Program does not discriminate based on the protected classes identified by USDA FNS and the State of Montana.

Policy

The local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, 7 CFR Parts 1, 15a, 15b, FNS Instructions and MCA 49-2-303.

1. Public Notification

- The State WIC Office and all local agencies will provide information regarding the availability of benefits and WIC's eligibility criteria with emphasis on pregnant women, migrants and homeless individuals. Agencies and private groups serving vulnerable populations are included in the outreach and referral network. This information will always be available on the Montana WIC website.
- If applicable, special outreach efforts will be made to inform migrants of the availability of the program. Outreach and referral activities are monitored by the State WIC Office staff during the on-site biennial monitoring visit, and in the annual review of the local outreach plan.
- All local agencies will have the following posters displayed wherever eligibility is being determined and wherever benefits are issued:
 - "And Justice for All"
 - "Fair Hearings Procedure"
 - *Point to Your Language* poster
- Other required postings in the clinic include:
 - Office Hours
 - Statement that the facility is "Non-Smoking"
 - WIC Memorandum of Understanding (MOU) Disclaimer
 - Any policy that impacts participant access or services
- Fair hearing and discrimination complaint procedures are provided in writing to participants when they are determined ineligible for the program.
- Local agencies will communicate any changes in hours of operation or hours of new sites to the State WIC Office, and post for applicants and participants to easily view.

2. Non-Discrimination Statement for Printed Materials

- The non-discrimination statement must be included on any programmatic materials which provide information on WIC eligibility or services, which includes but is not limited to:
 - Notice of Ineligibility
 - Program Booklet
 - Rights and Responsibilities

- WIC brochures
- Any outreach materials
- Press releases or Public Service Announcements
- Vendor memorandum of understanding
- Farm Direct agreement
- Contracts to provide WIC services

The non-discrimination statement is:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
program.intake@usda.gov

This institution is an equal opportunity provider.

3. Permitted use of Abbreviated Statement

- Requirements from the *113 FNS-Instruction* state that if the written material or short forms are too small to permit the full statement to be included, the material will at a minimum include (in print size no smaller than the text) "*This institution is an equal opportunity provider*"

4. Bilingual Staff, Qualified Interpreters, and Materials

- Local agencies will ensure required WIC services are provided to non-English or limited-English speaking persons in the appropriate language. This includes arranging for interpretive services as needed or requested by the participant.

- Participants may choose to bring a friend or family member to interpret for them; but under no circumstance will a participant be required to do so.
- A minor may not be used for interpretation under any circumstances.
- Language interpretation services are available through the State Department of Public Health and Human Services (DPHHS) for all WIC clinics to use. A separate agreement is not necessary at each local agency.
 - See attachment *Language Link Interpretive Services* for instructions on use
 - See attachment *Point to Your Language* poster to be posted at the point of service for any applicant or participant to use in requesting language interpretation services.
- The local agency will ensure that all applicable rights and responsibilities are read to non-English and limited-English speaking participants or parents/guardians of applicants/participants in the appropriate language.
- All interpreters will comply with confidentiality regulations.
 - A minor may not be used for interpretation under any circumstances.
- 711 Montana telephone relay service is a free service that connects customers who are deaf, hard of hearing or have speech disabilities.
 - This service will be provided to applicants/participants during all WIC services.
 - To access this service in Montana dial: 1-866-253-4090 (English); 1-866-225-1866 (Spanish).
 - Participants are not required to provide their own interpreters although they may voluntarily choose to bring a friend or family member to interpret if they prefer.

5. Provision of Services

- For each local agency that has sites not accessible to persons with disabilities, a written local policy will be developed to describe how services will be provided to the participant.
 - These provisions may include:
 - Service at other clinic sites
 - Within other accessible locations within the same clinic
 - In choosing among available methods, the local agency will give priority to methods that offer the most integrated setting appropriate for disabled persons to obtain the full benefits of the program.
 - The local policy will be flexible enough to provide reasonable accommodations to cover all types of disabilities.
 - These provisions may include:
 - Interpreters for the deaf
 - Readers of Braille for individuals who are visually impaired
- The intent of the Americans with Disabilities Act (ADA) is for people with disabilities to receive information in the form they prefer.
 - Examples of formats preferred by persons with disabilities include:
 - Large print
 - Audio compact discs
 - Captioned videos
 - Braille text
 - Information in alternate form

- A person who is hearing impaired may request that a nutrition education lesson be provided in another form, such as a pamphlet.
- Undue hardship
 - Undue hardship is an action requiring significant difficulty or expense when considered considering factors such as employer's size, financial resources, and the nature and structure of its operation.
 - The Montana Department of Public Health and Human Services, as a governmental entity of the state of Montana, is obliged in almost all circumstances to honor requests for accessible materials. Inconvenience or moderate difficulty or expense is not a sufficient reason for failing to provide all program related information in the form desired by the disabled person requiring it.
 - If it may be demonstrated that providing information in a particular format would impose an undue hardship, it need not be provided in that form.
 - Contact the State WIC Office for approval to deny a request based on undue hardship. When possible, the State Office will assist in producing requested materials.

6. Civil Rights Training and Compliance

- All new employees must complete civil rights training prior to receiving access to the WIC automated system. Thereafter, annual training is required by all employees during the federal fiscal year. The following are required annual civil rights training topics:
 - Collection and use of racial/ethnic data
 - Effective public notification systems
 - Complaint procedures
 - Compliance review techniques
 - Resolution of non-compliance
 - Requirements for reasonable accommodation of persons with disabilities
 - Requirements for language assistance
 - Verification of citizenship and immigration status
 - Conflict resolution
 - Customer service
- During biennial on-site visits State WIC Office staff will monitor for civil rights policy compliance. If non-compliance is found, a corrective action plan is required to remedy the deficiency.
- All findings of non-compliance or probable non-compliance related to Title VI will be forwarded to the Regional Administrator in the Mountain Plains Regional Office.

7. Reviews of Potential Programs

- As part of the application review process, State WIC Office staff will review applications according to the federally outlined criteria.

8. Civil Rights Impact Analysis

- Local Agency staff must complete an impact analysis before opening, relocating, or closing any clinic site including satellite facilities. See Attachment *Civil Rights Impact Analysis*.
- This form must be submitted to the State WIC office 30 days prior to opening, relocating, or closing a clinic site or satellite facility.
- The local agency shall assure the continuity of WIC Services is addressed in their local agency emergency response/disaster preparedness plan (ERDP). The guidelines shall reflect the purpose, authority and responsibilities developed locally.

9. Civil Rights Complaints

- Local agencies will use the *Program Complaint Form* to record any complaint, including those from an individual who feels their civil rights may have been violated.
 - Civil Rights violations include any form of discrimination based on race, creed, religion, sex, culture, color, age, physical or mental disability, veteran status, genetic information, national origin, sexual orientation, social origin or condition, retaliation, political belief, marital status, or ancestry.
- If the complainant declines to submit allegations in written form, the person receiving the call will write up the elements of the complaint by attempting to obtain as much information as possible.
 - Name, address, telephone number or means of contacting the complainant.
 - Specific location and name of the State or local agency delivering the service or benefits, or retailer where benefits were redeemed
 - The nature of the incident or action that led the complainant to feel discrimination was a factor.
 - The basis on which the complainant believes discrimination exists. (i.e. race, color, national origin, age, disability, sex, or retaliation or reprisal in any program or activity conducted or funded by USDA.).
 - Names, titles, business or personal addresses, telephone numbers of persons who may have knowledge of the alleged discriminatory action.
 - The date(s) during which the alleged discriminatory actions occurred, if continuing, the duration of such actions. In cases where the Local Agency staff are sure no discrimination has occurred, they will follow up using the *Montana WIC Participant and Retailer Compliance Form*.
 - In cases where discrimination may have occurred, Local Agency staff will refer the *Program Complaint Form* to the State WIC Director. All Civil Rights complaints must be submitted immediately.
 - A full record of all activities related to the complaint will be maintained on file, and logged, in the receiving agency's office. If the complaint is received at the State Office, a copy will be provided to the Local Agency.
 - These records will be reviewed during routine monitoring visits.
- After review, the State WIC Office will determine if the complaint constitutes a Civil Rights violation, and if so, will immediately refer in writing such complaints to the National Office of the Assistant Secretary for Civil Rights and the Montana DPHHS Office of Human Resources Civil Rights/EEO Specialist for investigation.
- Any person or representative alleging discrimination has the right report the complaint on their own and to file a complaint within 180 days following the alleged incident, and may choose to report the incident to any of the following entities:

Montana WIC Director
USF&G Basement
1625 11th Street
PO Box 4210
Helena, MT 59604-4210

Phone: 1-800-433-4298 Fax: (406) 444-0239

OR

USDA Office of the Assistant Secretary for Civil Rights
1400 Independence Ave, SW, Stop 9410 Washington, D.C. 20250-9410

Local area: (202) 260-1026

Toll-free: (866) 632-9992

Local or Federal relay: (800) 877-8339

Spanish relay: (800) 845-6136 Fax: 1-833-256-1665

OR

Montana Department of Public Health and Human Services Office of Human Resources
Civil Rights / EEO Specialist

111 N. Sanders St. Helena, MT 59604-4210

Phone: (406) 444-1386 Fax: (406) 444-0262

- Complaints against Local Agency staff received by the State WIC Office will not be communicated to the Local Agency for the State or USDA to determine whether an investigation is necessary.
- Confidentiality of the individual making the civil rights complaint will be maintained throughout the process.
 - The identity of every complainant will be kept confidential except to carry out an investigation, hearing, or judicial proceeding.
 - Anonymous complaints will be accepted and handled as any other complaint.
- All Civil Rights Complaints will be placed into the local agency Civil Rights log for tracking purposes.

10. Examples of Discrimination

- Exclusion of eligible persons from participation in the program on the basis of race, color, national origin, age, sex, disability, and retaliation or reprisal in any program or activity conducted or funded by USDA.
- Unfair allocation of food to eligible persons based on race, color, national origin, age, sex, disability, and retaliation or reprisal in any program or activity conducted or funded by USDA.
- Issuance of food benefits 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, disability, and retaliation or reprisal in any program or activity conducted or funded by USDA.
- Selection of local agencies for participation in the program which has the effect of, or results in, limiting the availability of the program benefits or services on the basis of race, color, national origin, sex, age, disability, and retaliation or reprisal in any program or activity conducted or funded by USDA.
- Failure to apply the same eligibility criteria to all potential participants seeking participation in the program on the basis of race, color, national origin, age sex, or disability, and retaliation or reprisal in any program or activity conducted or funded by USDA.
- Certification of potential participants to receive program benefits solely based on race, color, national origin, age, sex, disability and retaliation or reprisal in any program or activity conducted or funded by USDA.

- Maintenance of a waiting list which makes distinctions based on race, color, national origin, age, sex, disability, and retaliation/reprisal in any program or activity conducted or funded by USDA.