



Policy 452
Civil Rights
June 28, 2019

POLICY

Local WIC programs shall comply with the provisions of Title VI of the Civil Rights Act of 1964 and other applicable laws and regulations.

PURPOSE

The Oregon WIC program is available to all and no individual is excluded from participation, denied benefits, or subjected to discrimination on the grounds of race, color, national origin, age, sex or disability.

RELEVANT REGULATIONS

7 CFR §246.6—Agreements with local agencies

7 CFR 246.7¶ (j) —Notification of participant rights and responsibilities

7 CFR §246.8—Nondiscrimination

7 CFR §246.25 ¶(b)(3)(ii)—Records and Reports, Civil Rights

7 CFR §16—Equal Opportunity for Religious Organizations

28 CFR §35—Nondiscrimination on the Basis of Disability in State and Local Government Services

28 CFR §36—Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

FNS Instruction 113-1

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-6

American with Disabilities Act (28 CFR Part 35, Public Law 101-336, Title II, Subtitle A)

Americans with Disabilities Act Amendments Act of 2008

Title II of the Americans with Disabilities Act of 1990, State and Local Governments

Title III of the Americans with Disabilities Act of 1990, Public Accommodations and Commercial Facilities

Title IX of the Education Amendments of 1972, and USDA Implementing Regulation 7 CFR §15(a),(b)

Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, and USDA Implementing Regulation 7 CFR §15(b)

Age Discrimination Act of 1975 (45 CFR Part 91)

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and the Dept. of Justice Memorandum dated January 28, 1999 on the Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs

Civil Rights Restoration Act of 1987

1977 Food and Agriculture Act, Public Law 95-113

USDA Departmental Regulation 4330-2, Activities Receiving USDA Financial Assistance;
4300-3, Equal Opportunity Public Notification Policy

Child Nutrition Act of 1966, as amended

ASM 98-66—Impact of Participation in the WIC Program on Alien Status

ASM 00-08—Clarification on Civil Rights Issues

ASM 00-50—Western Region Toll Free Number for Civil Rights Issues/Questions

ASM 04-34—Final Policy on WIC Racial/Ethnic Data Collection

ASM 06-21—Nondiscrimination Statement for WIC Materials

Departmental Regulation 4300-003—Equal Opportunity Public Notification Policy

OREGON WIC PPM REFERENCES

- ◆ [215—Local Program Monitoring and Review](#)
- ◆ [225—State Outreach](#)
- ◆ [400—Local Program Overview: Responsibilities & Communications](#)
- ◆ [426—Record Retention Period](#)
- ◆ [450—Confidentiality](#)
- ◆ [470—Local Program Outreach](#)
- ◆ [588—Program Integrity: Complaints](#)
- ◆ [635—Participant Notification: Eligibility and Rights & Responsibilities](#)

APPENDICES

Page 452.11	Appendix A	Required USDA Nondiscrimination Statements
Page 452.13	Appendix B	Guidelines for state WIC Translation of Participant Materials

DEFINITIONS

Applicant: An individual who contacts the WIC clinic requesting WIC services.

Complainant: Any individual or group of individuals alleging discrimination in the delivery of WIC program benefits or services.

Disability: The Americans with Disabilities Act Amendments Act of 2008, defines disability with respect to an individual: a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment as described by subsequent sections. See CFR 36.105 and CFR 35.108.

Discrimination: 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 a protected class.

Limited English Proficiency (LEP) persons: Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Minorities: Individuals or groups of individuals belonging to the protected classes and all under-served populations covered by Title VI of the Civil Rights Act of 1964.

Participant: An individual who meets all eligibility criteria and is enrolled in the WIC program.

Protected classes: The prohibited bases and nondiscrimination categories under the civil rights law(s). For WIC, the protected classes are race, color, sex, age, national origin, and disability.

Reasonable accommodation: The removal of barriers in order to allow all individuals to participate in the WIC program.

PROCEDURE

Contract to the Financial Assistance Award

- 1.0 Local WIC programs agree to abide by civil rights laws and regulations by signing the contract to the Financial Assistance Award with the Oregon Health Authority. Please refer to [◆400—Local Program Overview: Responsibilities & Communications](#).

Public notification

- 2.0 Local WIC programs are required to inform potential WIC applicants and participants of:
 - program rights and responsibilities and the steps necessary for WIC participation
 - the right to file a complaint, how to file a complaint and the complaint procedure (see [◆635—Participant Notification: Eligibility, Rights and Responsibilities](#))
 - USDA's nondiscrimination policy

“And Justice For All” poster

- 2.1. The “And Justice For All” poster (revised July 2019) must be posted in **all** WIC offices and satellite clinics. USDA’s non-discrimination statement is on these posters in English and Spanish. See Appendix A for the full text of the non-discrimination statement.
 - 2.1.1. Display this poster in prominent places such as waiting rooms or other locations in the clinic where it can be seen by WIC applicants, participants and potential applicants.



Display this poster in an obvious place for all to see.

Posting locations

- 2.1.2. For information about posting requirements at Farmer's Market locations where Farm Direct Nutrition Program checks are distributed Please refer to ♦1100—FDNP: Local Program Responsibilities section 15.0 Public Notification: Program Availability and Nondiscrimination Statement Signage.

Ordering posters

- 2.2. "And Justice for All" posters can be ordered online through the Oregon WIC Shopify Store. <https://oregon-wic.myshopify.com/>

Protected classes for the WIC program

3.0 The federally protected classes that apply to the WIC program are:

- Race
- National origin
- Age
- Color
- Sex
- Disability

- 3.1. There are other protected classes that do not apply to WIC. If you have questions about these, contact your local legal counsel for advice.

Non-discrimination statement

4.0 The USDA non-discrimination statement must be included on all WIC program materials that are produced for public notification. These materials may include: outreach letters and brochures; program information; newspaper, television or radio announcements; posters; newsletters; referral materials; internet websites; application forms; or certification forms that are signed by participants. See Appendix A for the full text of the non-discrimination statement.

- 4.1. Information regarding program availability and USDAs nondiscrimination statement must be prominently displayed at all locations where FDNP checks are distributed and/or FDNP nutrition education takes place. This includes all out-of-clinic distribution sites. Please refer to ♦1100—FDNP: Local Program Responsibilities section 15.0 Public Notification: Program Availability and Nondiscrimination Statement Signage.

Shorter non-discrimination statement

- 4.2. There is a short form of the non-discrimination statement that may be used on materials with limited space. These materials may include:
 - postcards;
 - flyers of less than a page;
 - newspaper articles, radio and television public service announcements that are generally short in duration.

- 4.2.1. Refer to Appendix A for the short form of the nondiscrimination statement.

Guidelines for using the non-discrimination statement

- 4.3. The nondiscrimination statement should be:
 - in long form whenever possible

- on all WIC outreach materials;
- on program application materials provided to applicants;
- on materials that the WIC program produces for public information, public education or public distribution;
- large enough to be legible (at least 10-point font size for both the long and short forms);
- in English and in other languages appropriate to the local population; and
- in an alternative means of communication such as large print, Braille, audio, etc. when requested.

Statement not required

- 4.4. Materials specific to **nutrition education** or **breastfeeding** that strictly provide a nutrition message and do not mention the WIC program are not required to contain the USDA nondiscrimination statement.

Local agency non-discrimination statements

- 4.5. Some local agencies may recommend or require the use of non-discrimination statements specific to their own programs and facilities. These may be included on materials in addition to the required USDA statement but are not a substitute for it.

Outreach

- 5.0 Local programs are required to do outreach activities at least annually in order to inform eligible individuals, particularly minorities, of the availability of the WIC program. Please refer to [◆470—Local Program Outreach](#).
- 5.1. Provide printed materials such as pamphlets and outreach brochures containing information on where WIC services are available. Please refer to [◆470—Local Program Outreach](#) for guidelines on what should be included in printed materials.

Requests from the public

- 5.2. Local programs shall make program regulations and guidelines available to the public upon request.

Limited English Proficiency (LEP)

- 6.0 Where a significant number of potentially eligible individuals have Limited English Proficiency (see Definitions), the WIC program shall take reasonable steps to provide these individuals with meaningful access to WIC program services and information.
- 6.1. The state WIC program will provide outreach and program information in other languages determined to be reasonable and necessary. See Appendix B for State WIC Translation of Participant Materials.
- 6.2. Local WIC programs must take reasonable steps to provide WIC services in other languages as necessary. This may include working with interpreters, using a language line, and providing printed materials in appropriate languages.

- 6.2.1. Avoid using family members (especially the participant's children) to translate or interpret during WIC appointments.
- 6.3. State and local WIC programs can take the following steps to help determine when it is necessary to provide language services:
 - 6.3.1. Determine the number or proportion of LEP persons who are being served or who are in the eligible population.
 - 6.3.2. Consider the frequency with which WIC staff should have contact with LEP persons.
 - 6.3.3. Consider the importance of the information or service being provided.
 - 6.3.4. Consider the available resources of providing language services.
- 6.4. Contact the state WIC Civil Rights representative if you have questions about providing services to LEP individuals.

Participant rights and responsibilities

- 7.0 Inform applicants and participants of their rights and responsibilities at every certification and recertification visit. Rights and responsibilities must include program-specific information and WIC's nondiscrimination policy and complaint process and the participant's right to a fair hearing. Please refer to [◆635—Participant Notification: Eligibility, Rights and Responsibilities](#) for participant notification and documentation requirements.

Reasonable accommodation and program accessibility

- 8.0 Local WIC programs shall provide reasonable accommodation to ensure that the WIC program is equally accessible to all eligible individuals. Examples of reasonable accommodation include but are not limited to the following:
 - Provide wheelchair access to WIC service locations. This accommodation provides equal access to individuals using wheelchairs.
 - Where a significant portion of WIC participants need service in a language other than English, have bilingual staff or translators available who speak the same language as the participant.
 - For individuals who are not able to read required program information, have staff (or if also LEP, bilingual staff or a translator) read the "Rights and Responsibilities" form or other program materials to the individual.
 - Make reasonable modifications to policies, practices, or facilities as needed to address accessibility and avoid discrimination.

NOTE: Reasonable accommodation is the removal of barriers to allow individuals to participate equally in WIC. In some cases, what is considered "reasonable accommodation" may be different from what an individual request's. If you have questions, please contact the state Civil Rights Coordinator.

Alternative formats

- 8.1. When requested, provide program information in alternate formats (i.e. large print, Braille, electronic format or audio). It is the WIC program's responsibility to ensure effective communication of program information to individuals who

require materials in an alternate format and to meet the requirements for reasonable accommodation under the Americans with Disabilities Act.

Alien status

- 9.0 Inform individuals of alien status that receiving WIC benefits:
- **will not** affect their application for immigration or citizenship benefits, and
 - **does not** render them a public charge.

USCIS

- 9.1. The US Citizenship and Immigration Services (USCIS) should not request a WIC participant of alien status to repay any WIC benefits they have received when they apply for immigration or citizenship benefits.
- 9.2. Local programs shall not give participant enrollment information to USCIS staff. If a participant wants the local program to provide information to USCIS staff, they must request and complete a Release of Information form.
- 9.3. If a subpoena is received from USCIS or other agencies, refer to [◆450—Confidentiality](#), Appendix A, for the procedure to follow in responding.

Civil Rights complaint process

- 10.0 There are specific reporting and timeline requirements for all civil rights complaints. Please refer to [◆588—Program Integrity: Complaints](#) for information on how to handle civil rights complaints.

Racial/ethnic data collection and reporting

- 11.0 Local programs shall collect and document racial/ethnic data during certification in TWIST.
- 11.1. Explain to the individual that the data collection is for statistical purposes only and that it is a USDA requirement as part of the certification process.
- 11.2. Inform the individual that it does not affect their eligibility for the program.
- 11.3. Request that the participant self-identify their racial/ethnic background. Participants may choose to select more than one racial category (see ¶12.1).
- 11.3.1. If a participant chooses not to self-identify a race and/or ethnicity, WIC staff must use visual identification to determine the participant's racial and ethnic categories and should inform the participant of this. Selection of one race is acceptable when local staff must make this decision.
- 1.1.1. If an applicant is being pre-screened over the phone and chooses not to self-identify a race and/or ethnicity, chose "White" and "Not Hispanic or Latino." When the applicant comes in for an appointment, review all the prescreen information and update, if needed.

Racial/ethnic categories

- 12.0 Racial/ethnic data collection consists of a category for race and a category for ethnicity. The definitions of categories for documentation and reporting of racial/ethnic data are as follows:
- 12.1. Racial Categories:

- **American Indian/Alaskan Native** (American Indian includes North, Central and South American Indians; Alaskan Native includes Eskimo and Aleut)
- **Asian** (includes the Far East, Southeast Asia, and the Indian subcontinent including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, Vietnam)
- **Black or African American** (associated with the black racial groups of African descent and migration patterns)
- **Native Hawaiian or Other Pacific Islander** (includes natives of the Hawaiian Islands, Guam, Samoa and other Pacific Islands including the Caroline Islands, Fiji Islands, French Polynesia, Northern Mariana Islands, Palau Islands, Papua New Guinea, Solomon Islands, and Tokelau Islands)
- **White** (associated with European, Middle Eastern and North African descent and migration patterns, including the Arabian peninsula)

12.2. Ethnic categories:

- Not Hispanic or Latino
- Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish origin or culture, regardless of race)

Civil rights training for WIC staff

13.0 All WIC employees must receive civil rights training annually. It is recommended that new WIC staff complete civil rights training within 30 days of employment as part of their orientation.

13.1. WIC staff should have a basic knowledge of the following areas of civil rights compliance:

- 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.

NOTE: Although administrative supervisors do not have direct contact with participants, they supervise staff who do and therefore should have knowledge of all the required areas of the civil rights complaint process. The administrative supervisors should be able to help answer questions relating to civil rights issues and the complaint process from staff they supervise.

- 13.2. WIC staff may use a variety of methods to increase knowledge on civil rights. Additional training **does not replace the mandatory annual training** and may be formal or informal and may include but is not limited to the following:
- attending any county health department sponsored civil rights training;
 - discussing civil rights issues at a staff meeting;
 - reading up on civil rights articles or policies;
 - checking the internet for civil rights regulations and updates;
 - assigning civil rights questions for staff to research and report back; or
 - developing questionnaires to measure the staff's level of knowledge on discrimination and civil rights issues.

Documenting required staff training

- 13.3. Each local WIC program is required to maintain a record of staff training, including civil rights training. This record must be available for state WIC staff to review during the required biennial WIC program review.

Faith-based organizations

- 14.0 If a faith-based organization uses space in their facility to provide WIC services, the facility is not required to remove religious art, symbols, etc.
- 14.1. No USDA funds may be used to support any inherently religious activities.
- 14.2. No organization that receives USDA funds to offer WIC services can discriminate against an applicant or participant on the basis of religion.

RESOURCES

For additional information on civil rights regulations and resources visit the following websites.

1. USDA Office of the Assistant Secretary for Civil Rights: <http://www.ascr.usda.gov>
2. USDA Office of Civil Rights: <https://www.fns.usda.gov/civil-rights>
3. USDA Directives system: <https://www.ocio.usda.gov/policy-directives-records-forms/directives-categories>
4. Limited English Proficiency interagency website: <http://www.lep.gov>
5. HHS Civil Rights resource page: <http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/index.html>
6. Information and Technical Assistance on the ADA: <http://www.ada.gov/>
7. Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs: http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

POLICY HISTORY

Date	* Major Revision, Minor revision
5/4/2007	Revision
11/7/2012	Revision
3/8/2016	Revision
6/28/2019	Major revision

The date located at the top of the policy is the implementation date unless an “effective date” is noted on the policy. Policies will become compliance findings 6 months from the implementation date.

Release notes can be found in the corresponding document on the [Policy and Procedure Manual page](#).

***Major Revisions:** Significant content changes made to policy.

Minor Revisions: Minor edits, grammatical updates, clarifications, and/or formatting changes have occurred.

Date of Origin: Date policy was initially released

**If you need this in large print or an
alternate format, please call 971-673-0040.**

This institution is an equal opportunity provider.

APPENDIX A

Required USDA Nondiscrimination Statement

English—long form

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at:

http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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;
2. **fax:** (202) 690-7442; or
3. **email:** program.intake@usda.gov

This institution is an equal opportunity provider.

English—short form

This institution is an equal opportunity provider.

Spanish—long form

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el [Formulario de Denuncia de Discriminación del Programa del USDA](#), (AD-3027) que está disponible en línea en: http://www.ascr.usda.gov/complaint_filing_cust.html y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

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

Esta institución es un proveedor que ofrece igualdad de oportunidades.

Spanish—short form

Esta institución es un proveedor que ofrece igualdad de oportunidades.

APPENDIX B

Guidelines for State WIC Translation of Participant Materials

Current Translation of Materials in WIC:

The State WIC program currently translates the following program materials into 6 languages other than English: Spanish, Russian, Vietnamese, Cantonese (simplified Chinese that also works for Mandarin), Somali and Arabic:

- Rights and Responsibilities
- Participant signature form
- What proof to bring to WIC
- Oregon WIC Food List
- Shopping with your eWIC card
- Using your eWIC card
- Notice of WIC ineligibility
- Notice: Change in your WIC benefits

English and Spanish materials from the list above are currently printed by the state. The other languages are provided electronically on the state website for local agencies to print as needed.

State Agency Translation Identification Methodology:

1. Oregon WIC will estimate language translation needs by reviewing the languages of low-income Kindergarten children in Oregon.
 - a. Low-income are children who receive free and reduced lunch in Oregon public schools.
2. Oregon WIC will use annual data from the Oregon Department of Education and the WIC caseload for the past year.
3. Oregon WIC will complete the language analysis for language translation needs biennially.
4. Oregon WIC will offer print materials regularly in a written language if at least 1% of the low-income statewide kindergarten class speaks a specific language other than English, as recorded by the Department of Education.
5. Oregon WIC will offer electronic materials in a written language if at least 0.2% of the low-income statewide kindergarten class speaks a specific language other than English, as recorded by the Department of Education **or** there are 50 WIC families, based on the written language data, that have indicated a language other than English.

****Considerations when determining whether a written translation is appropriate:**

- What is the typical level of written literacy for this language's native speakers?
- How readily can local agencies obtain oral interpretation services for this language if necessary?
- Is it possible to provide a single translation that would adequately meet the needs of most of the participants who speak this language?
- Are there other ways of providing the necessary information that would better meet the needs of this language's speakers?