



**10 ADMINISTRATION**

*Effective: 6/1/96*

**10.51 Civil Rights: Nondiscrimination/Equal Opportunity**

*Revised: 09/2016*

**Revisions in Bold**

**POLICY:** The WIC Project and Farmers' Market Nutrition Program (FMNP) must operate in accordance with Federal policy which does not permit discrimination based on race, color, national origin, sex, age, or disability. Criteria or methods of administration which have the effect of subjecting individuals to discrimination because of the individual's race, color or national origin must not be used unless specifically required by law, such as age factors.

**BACKGROUND:** Local projects must comply with the following: Title VI of the Civil Rights Act of 1964 (race, color, and national origin), Title IX of the Education Amendments of 1972 (sex), Section 504 of the Rehabilitation Act of 1973 (handicapped individuals), Age Discrimination Act of 1975 (age) and other provisions listed in the Division of Public Health/WIC Program Contract Agreement which prohibits discrimination based on sexual orientation and religion. In addition, the Wisconsin Fair Employment law also prohibits employee discrimination based on national origin (ancestry), sexual orientation, arrest or conviction record, marital status, military participation, or religion (creed).

This policy reflects "Civil Rights Compliance and Enforcement – Nutrition Programs and Activities" FNS Instruction 113-1, November 8, 2005. Website: <http://www.fns.usda.gov/cr/crregulation.htm>

**PROCEDURE:**

**A. NOTIFICATION OF RIGHTS**

Local projects must notify applicants and participants of program rights and responsibilities. In addition, the nondiscrimination statement notifies them and potentially eligible persons, farmers, vendors, health care providers, the general public and other persons working with WIC internally and externally of the nondiscrimination bases, the nondiscrimination policy and their right to file a complaint, how to file a complaint, and the complaint procedures.

The "And Justice for All" poster (F-44094) must be prominently displayed in all WIC clinic waiting rooms and other areas frequented by participants and applicants, including satellite clinics. The nondiscrimination statement and procedure on this poster are in both English and Spanish.

The State developed "WIC Rights and Responsibilities" form (F-44161/S/H) informs participants and parents of a participant of their rights and responsibilities. A copy is on the WIC Folder in English and Spanish. Insert a paper copy of the

WIC Rights and Responsibilities that has been translated into other languages into the WIC Folder.

Effective methods must be implemented for notifying persons with Limited English Proficiency (LEP) of their right to language assistance and at no cost. Limited English Proficient or LEP is a legal term to describe individuals who, as a result of national origin, do not speak English as their primary language and who have limited ability to read, write, speak or understand English. (For more information, refer to the Support Document for this policy.)

Notify potentially eligible persons, applicants, participants, the general public, and other persons working with WIC internally and externally of changes in the program. This includes information pertaining to eligibility, benefits and services, location of WIC services, and hours of service.

## **B. NONDISCRIMINATION STATEMENT**

1. The nondiscrimination statement is required on all WIC materials (both State and local project-developed materials) to notify all of the nondiscrimination bases, the nondiscrimination policy and the procedure for filing a complaint. WIC materials that identify or describe the WIC Program include, but are not limited to, forms, publications, contracts, agreements, newsletters, advertisements, outreach materials, display boards, posters, home page of website, lists of WIC vendors and WIC Farmers' Markets/Farmstands, appointment reminders, handouts, referral materials, flyers, leaflets, and brochures. The type size should be the same as the surrounding text. To be effective, the statement must be legible, therefore, not in a type size too small to be read.

See [link](#) for current nondiscrimination statements in English, Spanish and Hmong.

### 2. EXCEPTIONS

- a) Current supplies of materials containing an old statement, or no statement, may be depleted. The nondiscrimination statement must be printed on all new materials.
- b) Forms used in determining eligibility that are only used by local agency staff (not for the public), i.e., growth grids, do not need the statement.
- c) 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 include the nondiscrimination statement.

- d) When the material is too small to permit the full statement, the short statement may be used. Examples of small items include a size of 3 inches by 5 inches, church bulletin announcements or newspaper ads. Print this statement in the same type size as the surrounding text: “This institution is an equal opportunity provider.” Spanish: “Esta institución es un proveedor que ofrece oportunidad igual a todos.” Hmong: “Lub chaw no yog ib qhov chaw pab cuam muab vaj huam sib luag.”
  
- e) For items that are impractical to print on because of the size or configuration, **the** short statement may be used. Examples include cups, buttons, magnets, pens and other promotional items. In addition, recognizing that Internet advertisements, radio and television public service announcements are generally short in duration, the short nondiscrimination statement may be stated. Print these statements in the same type size as the surrounding text: **“This institution is an equal opportunity provider.” Spanish: “Esta institución es un proveedor que ofrece oportunidad igual a todos.” Hmong: “Lub chaw no yog ib qhov chaw pab cuam muab vaj huam sib luag.”**

### **C. ASSESSMENT AND DOCUMENTATION FOR ETHNICITY / RACE**

1. For each applicant, it is required to enter ethnicity data (required to be collected first) and race data into ROSIE Information. Self-identification by the applicant is the preferred method. Staff may not “second guess,” or in any other way change or challenge a self-identification made by the applicant unless the declaration is obviously false. When the applicant declines to self-identify, staff must enter race or ethnicity data based on observation and staff determination must be noted in the Comments Box in ROSIE. The applicant should be informed that a visual identification of his or her race and ethnicity will be made and recorded in ROSIE.
  
2. Recommended Assessment: ROSIE Reports for numbers of participants by ethnicity and race on the WICY3008-3 Annual Report of Participation - Project Totals.

### **D. LANGUAGE INTERPRETATION, TRANSLATION AND ACCOMMODATIONS**

To ensure meaningful access, local projects must take reasonable steps to provide assistance to applicants and participants during the application process, in receipt of services, and in the processing of complaints or appeals, at no cost. Assistance may include resources for individuals with hearing, vision, or speech impairments, and language translation or interpretation services. Local projects are required to provide language assistance to people with limited English proficiency who could not gain meaningful access to services without other language assistance. Refer to Support

Document at the end of the policy for more information about qualified translators and interpreters and cost-effective strategies.

1. LANGUAGE INTERPRETATION: Language assistance must result in accurate and effective communication for participants who speak a native language other than English, a person with Limited English Proficiency (LEP).
  - a) It is recommended that the project develop policies and procedures for scheduling an interpreter, notifying staff, using the interpreter and documenting the use of the interpreter. Agency policies and procedures may be suitable. Consider establishing a glossary of terms related to the WIC Program, health and nutrition.
  - b) Interpreters must be available within a reasonable period of time during hours of service to avoid undue delay of services. It is permissible to set aside specific clinic time(s) or day(s) to serve special populations that need a language interpreter. However, if a member of the special population group cannot come in at this time, arrangements must be made to serve that person during regular service hours. People cannot be forced to only come on the day(s) or time(s) the interpreter is scheduled to be present since this would be segregation based on national origin, which is an impermissible form of discrimination.
  - c) Hire staff or interpreters (in person or telephone) who are trained in the skill of interpreting and demonstrate competence as interpreters through standard testing. The WIC Program offers trainings for interpreters and bilingual certifiers.
  - d) Contract with an outside interpreter service for trained and competent interpreters. It is preferable to hire those who understand the WIC Program and can interpret terminology used in the WIC Program. If the interpreter does not have this knowledge, they should be trained after hiring.
  - e) Arrange for services of voluntary community interpreters who are trained in the skill of interpreting and demonstrate competence as interpreters. They must understand their obligation to maintain participant confidentiality.
  - f) Arrange/contract for the use of a telephone language interpreter service. For more information about the telephone interpreter services, refer to the Support Document for this policy.
  - g) Use of friends or family members as interpreters is strongly discouraged. Children less than 18 years of age must never be used as interpreters. The agency may expose itself to liability under Title VI if it requires, suggests, or

encourages an LEP person to use friends, minor children, or family members as interpreters. This could compromise the effectiveness of the service, breach confidentiality, or result in reluctance on the part of individuals to reveal personal information critical to their situation and services. (Refer to the Support Document for this policy.)

- (1) EXCEPTION: A family member or friend may interpret to set up an appointment.
  - (2) EXCEPTION: Only when a direct request is made by the participant/guardian and only after it has been made clear that a professional interpreter is readily available at no cost, may family members (including spouse) or friends be used as interpreters. In these circumstances, the participant/guardian is required to sign a waiver to release the WIC agency from liability. The use of a family member or friend as an interpreter may be used if the effectiveness of services is not compromise or the participant's confidentiality is not violated. Family members or friends must be at least 18 years of age. Other issues to consider include the competence, appropriateness and conflict of interest when using a family member or friend. The waiver only applies for the date it is signed. The waiver must be retained according to Policy 10.42.
    - (a) The staff should have a trained interpreter observe the interpretation to ensure that effective and accurate interpretation actually occurred. In cases where a family member or friend is being used to interpret and interprets inaccurately, this interpreter should immediately bring this to the attention of the WIC staff. WIC staff would determine the next step to take.
    - (b) The WIC staff will use a trained interpreter when effectiveness of services will be compromised, the participant's confidentiality will be violated, the family member or friend interpreter is determined to be incompetent, inappropriate or there appears to be a conflict of interest.
- h) DOCUMENTATION:
- (1) Before the appointment: During pre-screening (or before the appointment), determine if language assistance will be needed during the appointment and make arrangements for an interpreter for the appointment. Language challenges must be entered into ROSIE Information if language assistance will be needed. This will print on the ROSIE Scheduler next to the participant's name. When selecting code O for "Other" language challenges, document the language challenge in ROSIE Comments. Document in ROSIE Comments that an interpreter

has been scheduled to inform other staff. Create an alert if needed. An interpreter column may be created in the ROSIE Scheduler.

- (2) During the appointment: CPAs and Nutrition staff enter a check in the Interpreter checkbox in the Care Plan when an interpreter is used. If the CPA or Nutrition staff is bilingual, do not check the interpreter box. Documenting when an interpreter is used will document a third person was involved in providing services and will justify the payment for a language interpreter with WIC funds. A scheduled interpreter may be documented in the ROSIE Scheduler column.
2. TRANSLATION: The project must ensure written materials are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be directly affected by the WIC Program. These include applicants, participants and their LEP parent(s) or guardian(s). The analysis of needed language services may find WIC-eligible populations that are being underserved because of existing language barriers. In Wisconsin, the most encountered groups are Spanish and Hmong. For more information, refer to the Support Document at the end of the policy.
  - a) It is particularly important that vital documents be translated. Vital documents include: applications, appointment reminders/list of what to bring to the appointment, non-discrimination statement and discrimination complaint form, consent forms, letters or notices containing important information regarding program participation (notices of eligibility criteria, rights and responsibilities, any thing requiring a response), notices pertaining to the reduction, denial or termination of services or benefits, or the right to appeal such actions, and notices advising LEP persons of the availability of free language assistance.
  - b) If persons do not read the language they speak, it may not be reasonable or effective to provide written materials in that language. It is recommended to provide LEP applicants/participants with both translations of the printed materials, English and the other language, because someone in the household or community may be able to help them understand the information. Consider other effective methods of communicating, such as reading the documents to them in English, having the interpreter read the translation to the participant, or have the participant/parent use an audio or visual aid in the language they speak.
3. The project must ensure the interpreters and translators are trained and demonstrate competency.

4. It is strongly recommended if the participant caseload contains a substantial number of participants of diverse populations, every effort should be made to employ members of these populations to provide culturally appropriate services and meet language needs.
5. **ACCOMMODATIONS:** To ensure meaningful access, local projects shall ensure resources are available to individuals with hearing, vision, or speech impairments. Communicate with the participant to learn what accommodations are needed. A reasonable effort must be made to provide the formats and devices that will work best for the WIC participant/parent. Local projects must provide “auxiliary aids,” assistive devices or other reasonable accommodations for the participant/parent with disabilities during the application process, in receipt of services, and in the processing of complaints or appeals.
  - a) If the participant requests a sign language interpreter, the local project shall accommodate the hearing disabled by contacting a vendor approved by the State WIC Office to schedule a sign language interpreter. The cost of these services is billed by the vendor and is paid by the State WIC Office. For more information, refer to the Support Document for this policy or contact the State WIC Office.
  - b) WIC Staff may use the Wisconsin Telecommunications Relay System for making appointments or communicating between appointments. The Relay System allows a telephone user who may be deaf, hard of hearing or speech impaired to call or be called by anyone using a voice telephone. Check your local telephone book or refer to the Support Document for this policy.
  - c) For those individuals who are visually impaired, provide materials in a format that allows accessibility to the information.
  - d) **DOCUMENTATION:**
    - (1) Before the appointment: During pre-screening (or before the appointment), determine if accommodations need to be provided during the appointment. Physical challenges must be entered in ROSIE Information if accommodations are needed. This will print on the ROSIE Scheduler next to the participant’s name. When using a sign language interpreter, select code D. Hearing Impaired but do not record in language challenges section. When selecting code O for “Other” physical challenges, document the physical challenge in ROSIE. Document in ROSIE Comments the type of accommodation that has been scheduled to inform other staff. Create an alert if needed.

- (2) During the appointment: Document in the ROSIE Care Plan what method of communication was used for a participant needing an accommodation.
  - (a) Some participants may prefer reading lips or written communication and others prefer a sign language interpreter. CPAs and Nutrition staff enter a check in the Interpreter checkbox in the Care Plan if a sign language interpreter is used. This will document a third person was involved in providing services and will justify the payment for a sign language interpreter with WIC funds.
  - (b) Materials may be in large print, in an audio format, translated into Braille, read to them or in another format that will assist the participant or parent with accessing the information.
- e) Recommended Assessment: Review ROSIE Reports for numbers of participants with physical challenges on the WICQ3010-2 Project Summary Statistics Report.

#### **E. RECOMMENDED ASSESSMENT OF LANGUAGE NEEDS**

It is recommended that the language needs of the population be assessed at least annually to ensure meaningful access. This assessment should lead to services that are both necessary and reasonable.

1. Review ROSIE Reports for numbers of participants with language challenges on the WICQ3010-2 Project Summary Statistics.
2. Identify the non-English languages that are currently or likely to be encountered in the project service area and estimate the number of LEP persons eligible for services and who are likely to be affected by the WIC Program. Include the LEP parent(s) or guardian(s) of children. Sources of information include: the most current Civil Rights Compliance Plan written by the county Human Services or Health Department or Private Non-Profit agencies; county census data; participant data from participant files; data from school systems, religious organizations, community agencies and organizations; legal aid entities; and Department of Health Services Affirmative Action/Civil Rights Compliance Office. The WIC Program Operations Coordinator also has census data by county.
3. Identify the stations at the WIC clinic where language assistance is expected to be needed. Some stations may require an interpreter whereas language assistance at other stations may be provided by bilingual staff in the course of providing services.

4. Identify the resources that will be needed to provide effective language assistance, including the location and availability.
5. Identify the arrangements that must be made to access these resources in a timely manner (e.g., at a time and place that avoids the effective denial or delay of the service, benefit, or right). Follow the processing standards for appointments in Policy 2.2. Determine procedures for obtaining interpreter and translation services, responding to LEP callers and those who make in-person contact, and responding to written communications from LEP persons.
6. Evaluate if existing assistance is meeting the needs of the LEP persons in the service area.

#### **F. DISCRIMINATION COMPLAINT PROCEDURE**

1. All complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability must be referred to United States Department of Agriculture (USDA). WIC and agency staff are prohibited from determining whether discrimination occurred or if the complaint is a program matter. Staff are prohibited from processing and investigating discrimination complaints although staff must complete the discrimination complaint form for verbal and anonymous complaints. Staff are prohibited from discouraging any individuals or groups in their efforts to file a complaint. If a complaint is anticipated, notify the State WIC Office.
2. A complainant may file a discrimination complaint with USDA in writing or verbally by telephoning. Refer complainants to the nondiscrimination statement and procedure printed on all WIC materials and provide a copy of the Civil Rights Discrimination Complaint Form (F-440082/S/H).
3. Any person alleging discrimination based on age, race, color, sex, national origin, or disability, has a right to file a complaint.
  - a) The complaint must be filed within 180 days of the alleged discriminatory incident
  - b) The complaint may be in writing or verbal.
    - (1) If a written complaint is received by a local WIC project alleges discrimination based on race, color, national origin, sex, age, or disability, it must be sent to USDA at the Washington, D.C. office. Local projects must send a copy of the discrimination complaint to the State WIC Office. Written complaints must be forwarded within 10 business days.

- (2) Anonymous complaints must be handled as any other discrimination complaint. WIC Staff should print the Civil Rights Discrimination Complaint Form (F-440082/S/H), complete the form with detailed information and send to the State WIC Office and USDA.
- (3) Verbal complaints may be made over the telephone by calling USDA. If a complaint is made and the person refuses or is not inclined to put the allegations in writing, a WIC staff person must write up the elements of the complaint for the complainant.
  - (a) All complaints received by the State WIC Office will be forwarded to USDA Office in Washington D.C. and to the Wisconsin Department of Health Services Affirmative Action and Civil Rights Compliance Office within 10 business days.
4. No person shall intimidate, threaten, retaliate, or discriminate against a person who has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to a discrimination complaint.
  - a) Examples of reprisal actions that are not allowed include: denial or termination of benefits after the complaint is filed, without appropriate cause; change of processing time or demands for additional non-essential documents; negative or hostile attitude toward individuals involved in the complaint; or making disparaging remarks about the individuals.
5. The identity of complainants shall be kept confidential except to the extent necessary to participate with the investigation and/or hearing related to the complaint.

#### **G. PROHIBITED DISCRIMINATORY PRACTICES**

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

1. Exclusion of eligible persons from participating in the WIC Program or the inequitable allocation of food benefits to eligible persons on the basis of age, race, color, sex, national origin, or disability
2. Issuance of food benefits in a place, time, or manner that results in, or has an effect of, denying or limiting the benefits on the basis of age, race, color, sex, national origin, or disability
3. Segregation of persons in a clinic waiting area or through the appointment system except to set aside specific clinic time or day to serve participants with special needs by having an interpreter available during those times

4. The selection of clinic locations for participation in WIC which has the effect of, or results in, limiting the availability of WIC benefits or services on basis of age, race, color, sex, national origin, or disability
5. Failure to apply the same eligibility criteria to all potential eligibles seeking participation in the Program, including certification of potential eligibles and placement on a waiting list on the basis of age, race, color, sex, national origin, or disability

## **H. TRAINING**

1. Civil rights training is required for persons of all levels of administration of the WIC Program. Training must be part of new staff orientation. Train new staff before they begin to work independently or at least within the first 5 days of starting their new position. “Frontline staff” who interact with program applicants or participants, including sub-contracted staff, and those persons who supervise “frontline staff,” must be provided training annually.
2. The topics must include but are not limited to: collecting and using racial/ethnic data; effective public notification systems including outreach; complaint procedures; compliance review techniques; conflict resolution; revised civil rights policies; requirements for reasonable accommodation of persons with disabilities; resolution of noncompliance (found during the Management Evaluation), including development of an action plan; requirements for language assistance; and customer service. Training on applicable civil rights laws, regulations and policies to avoid discrimination, provide guidance to staff on participant’s rights to access the WIC and FMNP Program, and ensure they receive fair and equal protection and treatment under the law. A presentation may address the general topics of race, color, national origin, sex, age and disability and may include discussions on ways to prevent discrimination practices in program services.
3. Topics related to national origin include Limited English Proficiency (LEP), translation, and interpretation. It may include training to ensure staff understand LEP policies and procedures and how to work effectively with in-person and telephone interpreters and to understand the dynamics of interpretation between participants, staff and interpreters.
4. Other acceptable training topics include: sensitivity to persons with disabilities, sensitivity to cultural characteristics, diversity, health disparities, specific cultural information and the discrimination components of Wisconsin Fair Employment Law. The topic of cultural competence would fall into the public notification and

outreach areas above because training on this topic helps staff become more competent in outreaching to different racial and ethnic groups and to understand their health issues. Not accepted: the topic of culture of poverty because it addresses socioeconomic factors and does not address the protected classes of race, color, national origin, sex, age and disability.

5. Maintain a training registry with the topic areas covered, the length of training, the presenter's name, dates, and signatures of employees who attended the training (sign-in log). Keep the registries on file at the project. Go to the WIC Training Connection, Civil Rights On-Line Module for the training registry and guidance.

## **I. MANAGEMENT EVALUATION**

1. The State WIC Office will review projects on a biennial basis using the WIC Management Evaluation tools. Local WIC projects are responsible for reviewing their sub-contracts.
2. It is recommended WIC Directors review this policy at least annually. Management Evaluation should include assessing the current composition of LEP and persons with hearing, vision or speech impairments in the WIC service area, the current communication needs of the WIC applicants and participants and whether the current assistance is meeting the needs of the WIC participants. Review whether sources of and arrangements for assistance are still current and viable for these persons. Review whether staff are knowledgeable about policies and procedures and how to implement them.

Sources of Information:

Wisconsin WIC Civil Rights On-Line Modules in WIC Training Connection (WICPRO)

Department of Health Services Affirmative Action and Civil Rights Compliance Office

Department of Workforce Development

United States Department of Agriculture

United States Department of Health and Human Services

## **ATTACHMENTS**

Support Document

Sample Waiver Template