



Office of General Services
Food Distribution

Civil Rights Training

The Emergency Food Assistance Program
(TEFAP)

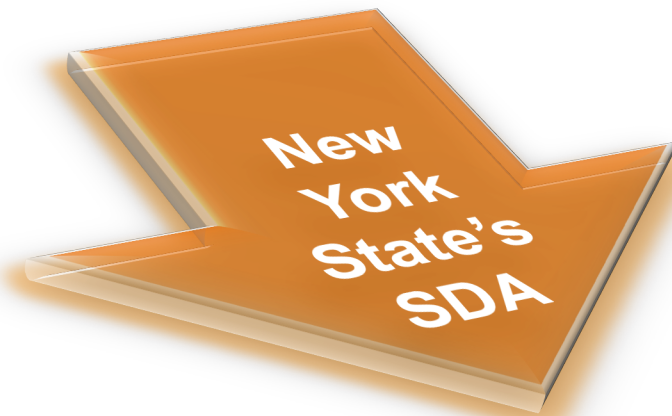
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The Emergency Food Assistance Program (TEFAP)

- TEFAP is a federal program hosted by the Food and Nutrition Service (FNS) branch of the United States Department of Agriculture (USDA)
- The goal of the program is to help supplement the diets of low-income Americans by providing them with emergency food assistance at no cost
- Any foods distributed through USDA programs are called “USDA Foods”
- All USDA Foods, regardless of program, are 100% domestic
- The USDA delegates an agency in each state to administer TEFAP program in their state. These agencies are known as the State Distributing Agency (SDA)



Civil Rights Legal Authorities

Title VI of the Civil Rights Act of 1964

- Prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance

Civil Rights Restoration Act of 1987

- Clarifies the scope of the Civil Rights Act of 1964

Section 504 of the Rehabilitation Act of 1973 & Americans w/Disabilities Act of 1990

- Prohibits discrimination against people with disabilities in programs that receive federal financial assistance

Title IX of the Education Amendments of 1972

- Prohibits discrimination on the basis of sex in any federally funded education program or activity.

Age Discrimination Act of 1975

- Prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.



Civil Rights Legal Authorities

Executive Order 13166 - “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000)

- Requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them.

USDA LEP Policy Guidance - “Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency” (79 Fed. Reg. No. 229, November 28, 2014)

USDA Departmental Regulation 4330-2

- Prohibits discrimination in programs and activities funded in whole or part by USDA

FNS Instruction 113-1 and Appendix B for Schools, SFSP, CACFP and C for USDA Foods and TEFAP

- Provides information on Civil Rights compliance and enforcement



Civil Rights Legal Authorities

7 CFR Parts 15, 15a & 15b “Nondiscrimination”

- Gives USDA agencies authority to develop Civil Rights Requirements and prohibits discrimination in Federally assisted programs or activities.

7 CFR Part 16, “Equal Opportunity for Religious Organizations”

- Gives equal footing to religiously affiliated organizations

7 CFR Parts 210(NSLP), 215(SMP), 220(SBP), 225(SFSP), 226(CACFP) Food and Nutrition Service, USDA.

- Regulations on the Child Nutrition Programs

7 CFR Parts 250 (USDA Foods) and 7 251(TEFAP)

- Regulations regarding food distribution of USDA foods

28 CFR Part 42 (Nondiscrimination in Federally Assisted Programs)

- Covers nondiscrimination on the basis of disability by State/local governance



Civil Rights Legal Authorities

Child Nutrition Programs (CNP): Richard B. Russell National School Lunch Act (NSLA) 42 USC 1751 et seq. Child Nutrition Act of 1966 (42 U.S.C. § 1771 et seq.)

National School Lunch Program (NSLP): Section 2 of the National School Lunch Act (NSLA), as amended, established the National School Lunch Program (NSLP) to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other foods.

Special Milk Program (SMP): Section 3 of the Child Nutrition Act, as amended, established the Special Milk Program (SMP) to encourage the domestic consumption of fluid milk by children in nonprofit schools and institutions that do not participate in a meal service program authorized under the NSLA or Child Nutrition Act.

School Breakfast Program (SBP): Section 4 of the Child Nutrition Act, as amended, established the School Breakfast Program (SBP), to authorize payments to the States to assist them to initiate, maintain, or expand nonprofit breakfast programs in schools.

Summer Food Service Program (SFSP): Section 13 of the NSLA, as amended, established the Summer Food Service Program (SFSP) to provide meals for children from needy areas during periods when area schools are not in session.

Child and Adult Care Food Program (CACFP): Section 17 of the NSLA, as amended, established the CACFP to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care.

The Emergency Food Assistance Program (TEFAP): The Emergency Food Assistance Act of 1983 (Public Law 98-8), as amended.



Assurances

To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the Civil Rights laws and implementing nondiscrimination regulations.”

A Civil Rights assurance statement must be incorporated in all agreements between Federal & State agencies (FNS Form 74), State & subrecipient agencies, and subrecipient agencies & their local sites.

(FNS Instruction 113-1, Appendix C)

What is discrimination?

“Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions...”

For FNS programs, complaints are based on one or more of the following six Federally protected bases:

- 1)Race,
- 2)Color,
- 3)National Origin,
- 4)Age,
- 5)Sex,
- 6)Disability.



What is Unlawful Discrimination?

Treating people differently does not necessarily constitute unlawful discrimination.

Examples of non-unlawful discrimination:

- An employer can choose to hire one person instead of another based on merit
- A restaurant can turn people away if admission would cause the establishment to exceed its occupancy limits



Customer Service: Making a Difference

- Treat all people with dignity and respect
- Answer questions in a voice that is non-threatening
- Clearly explain to everyone the rules as well as their rights and responsibilities
- Find and use tools and techniques to improve customer service
- Recognize that participants have varied needs and (sometimes) few resources

Customer Service: Making a Difference

- Notice when a person feels they have been treated in a rude manner
- Develop good listening skills
- Learn to put yourself in their place when necessary
- Learn to deal with a dissatisfied customer
- Improve customer satisfaction
- Ask yourself, “Am I treating this person in the same manner as I treat others?”



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Conflict Resolution

Key Points:

- Typically, customers who are behaving in a difficult manner usually have not had their expectations met or do not fully understand the role of the worker.
- Often, the customer is focused on getting immediate assistance with solving a problem and does not feel the worker is helping.
- Generally, people do not want to be difficult or argumentative with a caring individual. The customer may not be aware of how their negative behavior is affecting others.



Conflict Resolution

Communication components to defuse a difficult situation...

- Words
- Tone of Voice
- Body Language

A combination of these components when having face-to-face interactions with our customers.

Each component “says” something to our customer.

Conflict Resolution

Tips for working with people during difficult situations:

- Remain calm.
- State that you want to help and ask how you can be of assistance.
- Using information provided, determine what the issue is.
- Take time to try to understand the person's point of view. Listen for details about the concern, situation, or request. Repeat the concern or request to make sure you understand the person's expectations.
- When appropriate, apologize for the situation.
- Offer solutions. Take responsibility for finding a solution, or for putting a solution into action.
- Don't take the situation personally.
- Follow up. Personally make sure that the customer has been satisfied; and provide feedback.



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Conflict Resolution

If you have tried to assist the person by providing the best customer service you can, and the person remains argumentative or outright abusive, then do not allow yourself to be abused, and do not argue back. Keep your own sense of self-confidence, but still remain helpful.

Anytime you feel that someone is truly physically threatening, get away from the person and call the Police.



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Public Notification

All FNS assistance programs must include a public notification system.

The purpose of this system is to inform applicants, participants, and potentially-eligible persons of:

- program availability,
- program rights and responsibilities,
- the policy of nondiscrimination and
- the procedure for filing a complaint.

Elements of Public Notification

Program Availability

- Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation.

Complaint Information

- Advise applicants and participants at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures.

Nondiscrimination Statement

- All information materials and sources, including Web sites, used by FNS, State agencies, local agencies, SFAs or other subrecipients to inform the public about FNS programs must contain a nondiscrimination statement. The statement is not required to be included on every page of the program Web site. At a minimum, the nondiscrimination statement or a link to it must be included on the home page of the program information.



Elements of Public Notification

State agencies and their subrecipients must:

- Make program information available to the public upon request;
- Prominently display the “And Justice for All” poster;
- Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs;
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information;
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons.

Nondiscrimination Statement

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) US Postal 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: (202) 690-7442; or

(3) Email: program.intake@usda.gov.

This institution is an equal opportunity provider.



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Nondiscrimination Statement (*Spanish*)

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; or
- (2) Fax: (202) 690-7442;
- (3) Correo Electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.



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Nondiscrimination Statement

USDA Nondiscrimination Statement (NDS)

Short versions:

“This institution is an equal opportunity provider.”

“Esta institución es un proveedor que ofrece igualdad de oportunidades.” (Spanish)

The short version can be used in special circumstances only:

Federal regulations allow use of the shorter nondiscrimination statement on program material mentioning USDA if the content and intent of the is not vital to the program in nature, i.e. determination of eligibility, an agreement, an attestation, etc. Examples of allowable documents would be brochures, menus and flyers permitting that they meet the previously mentioned criteria.

Translations of the full nondiscrimination statement to additional languages can be found on the [FNS website](#)



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“And Justice For All” Poster

- Display the poster in a prominent location for all to view
- AD-475A New required version for TEFAP and Child nutrition programs
- Poster reflects current Nondiscrimination Statement and new graphic



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Racial and Ethnic Data Collection

TEFAP is **exempt** from data collection,
per FNS Instruction 113-1 Appendix C,
Section D, *DATA COLLECTION AND
REPORTING*



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Complaints of Discrimination

- Complaints shall be accepted and forwarded to USDA;
- Complaints must be filed within 180 days from the alleged act of discrimination;
- Complaints may be written, verbal, or anonymous;
- State agencies or subrecipient agencies may develop their own complaint forms, but the use of such forms cannot be a pre-requisite for acceptance ;
- A separate Civil Rights complaint log shall be maintained by the State & subrecipient agency;
- Confidentiality is extremely important and must be maintained.

Civil Rights Complaints Process

Complaints should include:

1. Name, address, and telephone number of the complainant
2. The location and name of the organization or office
3. The nature of the incident or action
4. The names, titles, and business addresses of persons who may have knowledge of the discriminatory action
5. The date(s) during which the alleged discriminatory actions occurred
6. The basis for the alleged discrimination.



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Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

April 7, 2016

SUBJECT: Age Discrimination Act of 1975 –Mediation of Complaints

TO: All Regional Civil Rights Directors

This memorandum provides guidance on the processing of discrimination complaints under the Age Discrimination Act of 1975 (Age Act), as amended, 42 U.S.C. 6101 *et seq.* The Age Act is one of the Federal civil rights laws enforced by FNS CRD that prohibits age discrimination in programs or activities receiving Federal financial assistance. Federal regulation, 45 CFR 90, provides general, government-wide rules for the implementation of the Age Act. Last year, the Department issued 7 CFR 15c establishing the policy of non-discrimination on the basis of age in USDA programs and activities and reinforcing the applicability of the policy to each FNS recipient.

These regulations require that all complaints alleging Age Act violations be referred for mediation. Mediation involves the use of an impartial, third-party mediator, who assists the complainant and respondent in reaching terms that both parties find satisfactory, without imposing a decision upon the parties. Mediation offers a faster and more creative resolution of complaints through informal dispute resolution methods, while minimizing expenses to the parties. All of the information obtained in the course of mediation is kept confidential.

Participation in mediation is not optional, but mandatory for both the complainant and the State Agency against whom the complaint is filed. 45 CFR 90.43(c)3; 7 CFR 15c.7(d). State Agencies are not required to reach an agreement or settle the dispute, but must participate in the effort to reach a resolution on a good faith basis.

For these reasons, it is important that every State Agency administering FNS-assisted programs promptly refer all complaints to FNS CRD that allege unlawful discrimination on the basis of age, regardless of whether other bases are alleged. FNS CRD will then forward the complaints to the Federal Mediation and Conciliation Service (FMCS) upon receipt. Concurring investigations of the complaint should not be conducted while FMCS performs mediation.

This guidance memorandum should be shared with Program Directors in your region and any State Agency deemed appropriate to facilitate cooperation with FMCS and/or FNS CRD staff for compliance with Age Act requirements. If you have any questions, please contact Harriet Komegay, Harriet.Komegay@fns.usda.gov.

Roberto Contreras
Director, Civil Rights Division

USDA is an Equal Opportunity Provider, Employer and Lender

Age Based Complaints



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Civil Rights Complaints Process

USDA Discrimination Complaint Form

English

<https://www.usda.gov/sites/default/files/documents/usda-program-discrimination-complaint-form.pdf>

Spanish

<https://www.usda.gov/sites/default/files/documents/USDAProgramComplaintForm-Spanish-Section508Compliant.pdf>



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Civil Rights Training

- State agencies are responsible for training subrecipient agencies on an **annual basis**. (Food banks are required to keep a training log documenting yearly trainings of food bank staff and volunteers.)
- Subrecipient agencies are responsible for training their local sites, including “frontline staff” who interact with applicants or participants on an **annual basis**. (RAs are required to keep a training log documenting yearly trainings of staff and volunteers.)
- New employees must receive training before participating in program activities.
- Volunteers must receive training appropriate to their roles and responsibilities.



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Civil Rights Training

All staff should receive training on all aspects of Civil Rights compliance, including:

- 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.

Who are persons with Limited English Proficiency (LEP)?

Definition:

“Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.”



LEP and Bilingual Requirements

Title VI and its implementing regulations, Executive Order 13166, and Federal agency guidance require Federal agencies and recipients (State agencies, local agencies, or other subrecipients), to take reasonable steps to ensure “meaningful” access to their programs and activities by Limited English Proficient (LEP) persons.

(FNS Instruction 113-1, Section VII)



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LEP and Bilingual Requirements

Factors to consider in addressing LEP:

- Number or proportion of LEP persons served or encountered in the eligible population.
- Frequency with which LEP individuals come in contact with the program.
- Nature and importance of the program, activity, or service provided by the program.
- Resources available to the recipient and costs.



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LEP and Bilingual Requirements

Population data sources:

- US Census Data
 - <http://www.census.gov/2010census/data/>
- American Community Survey
 - <http://www.census.gov/acs/>
- Migration Policy Institute's National Center on Immigrant Integration Policy
 - <http://www.migrationpolicy.org/>
- Department of Justice site: LEP.GOV
 - <http://www.lep.gov/maps/>



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Disability Discrimination

What is the definition of *disability*?

- A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- Major life activity means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. *functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions (ADA Amendments Act of 2008.)



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Disability Discrimination

- Sections 504 of the Rehabilitation Act of 1973 and USDA implementing Regulation, 7 CFR Part 15b
 - Prohibits discrimination based on disability in programs or activities receiving Federal financial assistance.
- Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A
 - prohibits discrimination on the basis of disability in all services, programs and activities provided to the public by State and local governments.
- These Civil Rights laws protect persons with disabilities if they are potential applicants or participants in any FNS funded programs.

Disability Discrimination

There is also an obligation to ensure that members of the public are provided accommodations in order to access program information, applications and assistance (i.e., Braille, large print, and audio tape)

Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.

Equal Opportunity for Religious Organizations

7 CFR Part 16.....

- Ensures a level playing field for the participation of faith-based organizations and other community organizations in USDA programs.

Compliance Reviews

- Examine the activities of State agencies, subrecipients, and local sites to determine Civil Rights compliance;
- FNS Civil Rights and Program staff review State agencies.
 - FNS staff and State agencies review subrecipients.
 - Subrecipients review local sites.
- Significant findings must be provided in writing to the reviewed entity and to FNS.



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How to file a complaint...

Online:

Fill out a complaint form on the dhr.ny.gov website by answering all of the questions and signing the form. Type the form if possible.

By mail:

If you are filling out the form by hand, please print. You may send the form by postal mail to the regional office nearest you.

By email or fax:

alternatively, you can email your complaint to complaints@dhr.ny.gov or fax it to (718) 741-8322.

Please remember: Attach copies of any documents you think will help the Division investigate the case (pay stubs, letter of termination, performance evaluations, etc.)

Due to restrictions imposed by the COVID-19 pandemic, you may return the complaint without notarization.



Compliance Reviews

There are three types of compliance reviews:

- Pre-Award Compliance Reviews
- Routine (Post-Award) Compliance Reviews
- Special Compliance Reviews



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Pre-Award Compliance Reviews

State agencies, subrecipient agencies, and local sites must be in compliance with Civil Rights requirements **prior to approval** for Federal financial assistance.



Routine/Post-Award Compliance Reviews

FNS and State agency must conduct routine compliance reviews as identified by FNS Instruction 113-1 and program-specific regulations/policies

Sample post-award review questions:

- Do printed materials contain the nondiscrimination statement?
- Is the “*And Justice For All*” poster displayed appropriately?
- Are program informational materials available to all?
- Have all front-line staff/volunteers received their yearly Civil Rights training?
- How are applicants and participants advised of their right to file a Civil Rights complaint of discrimination?
- Are reasonable accommodations appropriately made for people with disabilities?



Special Compliance Reviews

- May be scheduled or unscheduled;
- To follow-up on previous findings of noncompliance;
- To investigate reports of noncompliance by other agencies, media, or grassroots organizations;
- May be specific to an incident or policy;
- History of statistical underrepresentation of particular group(s);
- Pattern of complaints of discrimination.

Resolution of Noncompliance

A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, subrecipient agency, or a local site.

Steps must be taken immediately to obtain *voluntary* compliance.

A finding's effective date is the date of notice to the reviewed entity.

Verification of Citizenship or Immigration Status

This issue should never give rise to discrimination.



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What are New York State's Protected Classes?

- The New York State Human Rights Law states that every citizen has an “equal opportunity to enjoy a full and productive life.” The law prohibits discrimination in employment, housing, credit, places of public accommodations, volunteer firefighting, non-sectarian educational institutions and retaliation for filing a discrimination complaint
- This Law is enforced by the New York State Division of Human Rights (“DHR” or “Division”) through the investigation, hearing, and resolution of complaints filed by individuals against alleged discriminators.

If you believe you are a victim of unlawful discrimination that is not one of the six federally protected classes, but is a class protected by New York State you may file a complaint with the [New York State Division of Human Rights](http://www.DHR.NY.GOV) at www.DHR.NY.GOV.

What are New York State's Protected Classes?

- | | | |
|---|-----------------------------------|---|
| 1) Race | 7) Creed | 13) Color |
| 2) National Origin | 8) Sexual Orientation | 14) Military Status |
| 3) Sex | 9) Age | 15) Marital Status |
| 4) Domestic violence victim status | 10) Disability | 16) Lawful source of income (in housing only) |
| 5) Predisposing genetic characteristics | 11) Gender Identity or Expression | 17) Prior arrest or conviction record |
| 6) Retaliation for opposing unlawful discriminatory practices | 12) Pregnancy-related condition | 18) Familial status |



Contact Information

New York State Office of General Services

Food Distribution

93 Broadway, Menands, NY 12204

Phone: 518-474-5122

Fax: 518-486-5660

Email: ogsdonatedfoods@ogs.ny.gov

Website: <https://ogs.ny.gov/usda-food-distribution>