

**Guidelines for Compliance with
Federal Assistance Nondiscrimination Requirements (2009)**

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Compliance with Federal Assistance Nondiscrimination Requirements

This handbook is designed to help Regional Offices and other Fish and Wildlife Service (Service) employees understand the nondiscrimination requirements of the Public Access Civil Rights Program (Program), under the jurisdiction of the Wildlife and Sport Fish Restoration (WSFR) office. This information is intended to provide practical guidance to conduct compliance reviews, process complaints of discrimination, and other related activities connected with public access civil rights.

I. AUTHORITIES

The authorities for these guidelines are:

- A.** Title VI of the Civil Rights Act of 1964;
- B.** Section 504 of the Rehabilitation Act of 1973;
- C.** Title II of the Americans with Disabilities Act of 1990, as amended;
- D.** The Age Discrimination Act of 1975;
- E.** Title IX of the Education Amendments of 1972;
- F.** U.S. Department of the Interior regulations at 43 CFR Parts 17 and 41;
- G.** Americans with Disabilities Act/Architectural Barriers Act Guidelines;
- H.** Presidential Executive Orders 12898 (Environmental Justice) and 13166 (Limited English Proficiency), both linked to Title VI.

The Service's Civil Rights Coordinator for Public Access in WSFR, Division of Policy and Programs, is responsible for monitoring these civil rights authorities, also known as the "Covered Acts" throughout this handbook. The Department of the Interior's (DOI) Office of Civil Rights (OCR) is ultimately responsible for these requirements.

II. PURPOSE

The purpose of these guidelines is to explain the requirements under the Covered Acts in order to receive the Federal financial assistance awards.

Any program or activity receiving Federal financial assistance must not discriminate against any person on the basis of race, color, national origin, age, disability, or sex (in educational programs).

III. SCOPE OF AUTHORITIES

These guidelines are applicable to Federal financial assistance programs administered by WSFR and awarded to State agencies. When WSFR awards Federal financial assistance to a State agency, all its programs must be in compliance with the Covered Acts. The Secretary of the Interior makes the final decision on civil rights activities affecting Federal financial assistance.

IV. DEFINITIONS

- A. Beneficiary:** Someone who benefits from or participates in programs receiving Federal financial assistance.
- B. Compliance Review:** The process we use to assess recipients' policies and procedures to determine whether the recipients are complying with Federal civil rights requirements.
- C. Person with a disability:** Any person with a physical, mental or sensory impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- D. State agency recipients of Federal financial assistance:** Any U.S. State, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands; and the territories of Guam, the Virgin Islands, and American Samoa.

V. COVERED PROGRAMS

This handbook covers Federal financial assistance programs WSFR administers and awards as grants to State agencies.

VI. COMPLIANCE RESPONSIBILITIES

- A. General.** The Covered Acts require that recipients are responsible for ensuring that they are in compliance with these Acts, DOI regulations, and Service standards and policies.
- B. Designation of State Officials.** The statutes require recipients to designate at least one person to coordinate efforts to comply with the Covered Acts. The regulations for Section 504 and Title IX require Grievance Officers, and grievance processes with designated officials.
 - 1.** Recipients may designate one or more people to be responsible for each Act or a person may be responsible for more than one Act. Recipients should ensure that the designated person is familiar with the compliance requirements of the Covered Acts and these guidelines.
 - 2.** The name, title, address and telephone number of the designated official(s) from the recipient should be available.
- C. Compliance Information.** Regulations (43 CFR Part 17, Section 17.5(b)) require that recipients:
 - 1.** Maintain information that is necessary to determine whether they are in compliance with the Covered Acts, and

2. Give WSFR or Regional officials the information when requested. Examples of the type of material officials typically requested are in [Appendix A](#). Regional Offices will notify a State in writing if we select it for a review.

D. Technical Compliance Requirements and Standards.

1. The Covered Acts prohibit recipients from the following:

- a. Selecting, locating, or operating any facilities for public use in a manner that will exclude or limit opportunities on the basis of race, color, national origin, age, sex or disability. The recipient also must not deny entry to facilities on the basis of race, color, national origin, age, sex, or disability. Examples of these facilities include but are not limited to: buildings, target and shooting ranges, boat docks, fishing piers, trails and walkways, hunter and aquatic resource education sites, and public hunting and fishing areas.
- b. Exclusively selecting license vendors whose locations make it difficult for minorities or people with disabilities to acquire licenses.
- c. Contracting with an organization to provide a service which, because of discrimination in membership, would limit or restrict participation. For example, a State cannot contract with a sporting organization to use its target range or fishing facilities if that organization restricts admission based on race, color, national origin, age, sex or disability.
- d. Permitting any group to contract for or use the recipient's services or facilities without written assurance that it will not discriminate on the basis of race, color, national origin, age, sex, or disability when receiving the service or using the facility.
- e. Denying a person on the grounds of race, color, national origin, age, sex, or disability the opportunity to serve on State advisory boards or commissions that plan or advise the State agency on activities receiving Federal financial assistance (see 43 CFR Part 17, Subpart A, Section 17.3 and 28 CFR Part 42, Section 42.104).

2. The Covered Acts require recipients to make reasonable efforts to inform the public about available opportunities that Federal financial assistance projects provide, and that the projects are subject to compliance with the Covered Acts. More specifically, the Covered Acts require the following:

- a. Make information distributed to the public available to all members of the public regardless of race, color, national origin, age, sex, or disability. These materials include, but are not limited to: notices on the availability of hunting and fishing licenses; hunting, fishing and boating regulations, atlases, and maps, including accessible areas; notices of the availability of hunter and aquatic resource education classes.
- b. If a significant proportion of the public the recipient serves does not speak and read English, the recipient must provide written material in the language a significant proportion of the public speaks and reads.
- c. Recipients must post a notice of their agency complaint procedures in conspicuous places where the public comes for services and information.

d. Recipients must ensure that materials describe the services, activities, and facilities that are accessible to people with disabilities, or where they may obtain information about accessible facilities and activities. The information must be in a form that can easily be communicated to people with visual or hearing disabilities.

E. Employment.

1. Title VI of the Civil Rights Act. Employment practices that may affect the delivery of services to beneficiaries of Federally assisted programs are subject to review under these guidelines. Title VI includes volunteers and other people who provide services (e.g., hunter and aquatic resource education instructors).

2. Section 504 of the Rehabilitation Act of 1973. The regulations for this Act (43 CFR Part 17, Subpart B, Section 17.210(a)) prohibit recipients from discriminating against qualified people with disabilities by not hiring them for any Federally assisted program solely on the basis of disability. The specific list of employment activities are in 43 CFR Part 17, Subpart B, Section 17.21(b)(4). Section 504 of the Rehabilitation Act of 1973 requires the following:

a. Recipients must make reasonable accommodations to the known physical or mental disabilities of qualified applicants or employees unless the accommodation would cause an undue hardship to the recipients. Recipients must also make reasonable modifications to programs to provide equal program access.

b. Recipients may not enter into any relationship, contractual or otherwise, that subjects qualified applicants with disabilities or employees to discrimination. This includes, but is not limited to, relationships with employment agencies, labor unions, or organizations providing training programs.

c. When recipients use employment tests, they must ensure that the tests do not discriminate against applicants with disabilities and are adapted for people with sensory, manual, or speaking impairments, except when they are specifically testing for those skills.

3. The Covered Acts in this guidance do not include employment discrimination. Any State agency employee alleging employment discrimination must file his/her complaint through an appropriate employment discrimination complaint system.

F. Accessibility.

1. General: Recipients must operate each program and activity in a way that qualified people with disabilities can access and use the overall program or activity. Recipients do not have to make every part of an existing facility, program or activity accessible (see 43 CFR Part 17, Section 17.216 and 17.217).

2. Specific State Programs. In addition to State-specific programs, these also include the national hunter and aquatic education programs. Recipients must ensure that:

- a. Reasonable modifications are available in education courses for people with disabilities.
- b. Facilities where the courses are held are accessible, including live firing ranges, where the recipient constructs them or leases them through a cooperative agreement.
- c. Informational materials announcing the locations of classes contain information about accessible classes. Materials should explain that participants with disabilities who require aid need to give prior notices to instructors and the process to give notice is included.
- d. Instructors are informed that they must make an effort to accommodate qualified disabled people. Instructors have the options of: (a) making the class accessible; (b) referring the students to another class that is accessible for that person's needs, or (c) developing an acceptable alternative to a and b.
- e. In recreational hunting, shooting, fishing, and boating activities, recipients must ensure that: (1) qualified people with disabilities can access recreational hunting, shooting, fishing and boating activities and participate in programs; and (2) literature about the dates and locations of recreational activities contains information about any special accommodations made for people with disabilities. The literature should explain that people requiring additional special accommodations should notify the State agency and provide the State contact information.
- f. For all of the above activities, State recipients are required to make reasonable modifications in their programs to ensure equal access for qualified people with disabilities.

3. Self-Evaluation and Transition Plans. Regulations require recipients to:

- a. Evaluate current policies, practices, and facilities and identify those that do not comply with Section 504 of the Rehabilitation Act. Recipients must involve interested people, including those with disabilities or organizations representing those with disabilities, in the evaluation (43 CFR Part 17, Section 17.205).
- b. Modify any policies, practices, and facilities not in compliance with Section 504.
- c. Take appropriate steps to eliminate the effects of any discrimination that resulted from previous activities.
- d. If a recipient finds that it must make structural changes to a facility to make a program accessible, the recipient must develop a transition plan. The transition plan describes the steps to complete the changes: (1) Develop the plan with the assistance of interested people, including people with disabilities; (2) Make the plan available to the public; and (3) At a minimum, include a description of physical obstacles in facilities that limit accessibility to people with disabilities; a detailed description of the methods the recipient will use to make the facilities accessible and useable; the schedule for taking steps to achieve accessibility (if it will take longer than a year, the interim steps that the recipient will take each year of the transition period); and the name of the person responsible for implementing the plan.

4. Methods to Make Facilities Accessible. There are several methods the recipient can use to make existing facilities accessible, including:

- a. Redesign equipment.
- b. Reassign classes or services to take place in accessible buildings.
- c. Assign aids (to assist with mobility, hearing, sight, etc.) or personal assistants to participants.
- d. Alter existing or construct new facilities (see [Section VI.G](#)).

The list above is not all-inclusive. Recipients should consider these and other methods that will make programs accessible to people with disabilities. Structural changes to existing facilities are required only when there are no other acceptable methods for making the facility and program accessible.

G. New Construction or Alteration.

1. When recipients construct or renovate all or part of federally funded facilities, they must design and construct or alter them so disabled people can access and use them. They should use the Americans with Disabilities Act/Architectural Barriers Act (ADA/ABA) Guidelines that the Access Board adopted on July 23, 2004.
2. If a recipient facility does not receive direct Federal funding, then the Americans with Disabilities Act Accessibility Guidelines (ADAAG) apply.

VII. COMPLAINT PROCEDURES

A. General. Any person who believes he or she has been subject to discrimination, either individually or as a member of a specific class of people, may file a complaint. People must submit complaints using the procedures below.

1. All complaints filed under Title VI, Title IX, Section 504, Title II or the Age Discrimination Act:
 - a. Must be in writing.
 - b. Must be filed within 180 days from the date of the alleged discrimination. The Chief, Division of Policy and Programs, may extend the time limit.
 - c. The complainant or the complainant's representative must sign them.
 - d. Complaints should be sent to:

Civil Rights Coordinator for Public Access
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Mail Stop: WSFR-4020
Arlington, VA 22203.

2. If the complaint is not in writing, the official receiving the complaint must instruct the complainant to put the complaint in writing and send it to the contact above.

3. The complaint should include:
 - a. Name.

- b. Address.
- c. Telephone number and other contact information for the complainant.
- d. The basis of the complaint and brief description.
- e. The date(s) of the alleged discrimination.

This information is for use by the complaint-processing office only. We will not share this information with the respondent agency if the complainant wishes to remain anonymous.

B. Additional Responsibilities of the State Recipient.

1. The Covered Acts require recipients to notify the public of their right to file formal complaints and explain the complaint procedures. Following are the notification requirements of the Covered Acts:
 - a. Recipients must put a nondiscrimination clause, which includes procedures for filing complaints, in handbooks, manuals, pamphlets, and other materials that they ordinarily distribute to the public to describe the Federally assisted programs or activities (see [Appendix C](#)).
 - b. Recipients must display notices explaining the nondiscrimination provisions of the Covered Acts as they apply to the Federal financial assistance programs in place where the public will see them. The notices should also explain the procedures for filing complaints.
2. When the State recipients receive a complaint, they should take the following actions:
 - a. Record it in a complaint log. The entry must include: (1) a case identifier; (2) the complainant's name, address, and phone number; (3) a description of the complaint; (4) the date the complaint was filed and investigation completed; (5) the disposition of the case, including resolution; and (6) all other pertinent information.
 - b. Put a date of receipt on the complaint.
 - c. Send a copy of the complaint to the Division of Policy and Programs (address listed in [VII.A](#) above) within 10 days after receipt, if the complaint cannot be resolved at the recipient level.
 - d. Retain a copy for State records.

VIII. COMPLIANCE REVIEW PROCEDURES

A. General. This part of the handbook describes our Service responsibilities when conducting compliance reviews to ensure State recipients operate grant programs in compliance with the Covered Acts.

B. Compliance Review Responsibilities.

1. The Service's Regional Diversity and Civil Rights Offices must:
 - a. Conduct an onsite or desk audit compliance review of State recipients at least once every 5 years.

- b.** Send a letter to recipients to notify them no less than 60 days prior to a scheduled review.
- c.** Coordinate with State staff on a mutually agreeable date for onsite reviews and proposed locations.
- d.** Within a reasonable period after the review/audit is complete, generally 60 days, prepare and send a Report of Findings to the recipient.

2. The Civil Rights Coordinator for Public Access assists Regions with technical guidance when requested.

3. When Regional Offices include deficiencies in a report, the recipient is asked to respond and provide corrective actions within a reasonable period of time, generally within a year.

4. The Regional Office performing the review must keep a copy of the report and related correspondence for a period of 5 years, or until the next review.

5. The Regional Office must provide reports and subsequent State responses to the WSFR Division of Policy and Programs.

C. Determination of Compliance. The Regional Office must:

- 1.** Notify recipients of any noncompliance and deficiencies found in a compliance review.
- 2.** Assist recipients to plan and implement corrective actions for identified deficiencies.
- 3.** Cooperate with recipients and help them resolve conditions of noncompliance.

D. Selection Criteria for Performing Compliance Reviews. Recipients are reviewed on a 5-year cycle, as follows:

- 1.** For Regions 1, 3, 4, 5, and 6 – two reviews per year.
- 2.** For Region 2 – one review per year.
- 3.** For Region 7 – one review every 5 years.
- 4.** For Region 8 – one review every 2 to 3 years.

E. Outreach/Community Liaison Activities. Recipients should, in conjunction with 28 CFR Part 42, Section 42.106; 43 CFR Part 17, Subpart A, Section 17.3; and 43 CFR Part 17, Subpart B, Section 17.205:

- 1.** Maintain active liaisons with minority and disability groups.

2. Encourage inclusion of all demographic groups in programs and activities.

F. Environmental Justice. As part of the inclusion provisions of Title VI of the Civil Rights Act of 1964 and implementing regulations, the intent of Presidential Executive Order 12898 and the Council of Environmental Quality’s “Environmental Justice Guidance Under the National Environmental Policy Act,” recipients need to:

1. Consult with minority and low income communities on decisions they make as part of the National Environmental Policy Act or related State processes.
2. Monitor, as necessary, agency facilities for emissions of toxic waste into the air, ground, or water, so that these emissions do not have an adverse impact on minority or low income communities.

G. Limited English Proficiency. As part of Title VI of the Civil Rights Act of 1964 and Presidential Executive Order 13166, recipients should:

1. Provide equal program access to people who have Limited English Proficiency (LEP).
2. Consider the four LEP factors—size of LEP population, frequency of contact with LEP clients, the mandatory nature of the program, and available resources—as the basis for determining the extent of translation services to provide.
3. Measure frequency of contact with LEP clients by using 24 hour per day translation services and tracking the contacts with LEP clients.
4. Ensure adequate staff training on LEP requirements including responding to visits or calls from LEP clients.
5. Consult with the [Department of Justice Website](http://www.lep.gov), www.lep.gov, for other information on LEP requirements.

IX. RESOLUTION OF NONCOMPLIANCE

A. Voluntary Compliance. Voluntary compliance is when a recipient is willing to correct conditions of noncompliance on its own with no formal action taken by the Service or DOI. The regulations require that we give the recipients a chance to pursue voluntary compliance before we initiate any enforcement actions.

B. Procedures for Effecting Compliance.

1. WSFR makes final determinations of violations by a State recipient, whether found during a complaint or a compliance review. If WSFR determines a violation of one or more civil rights laws by a recipient, then WSFR will send that recommendation for enforcement to the DOI OCR. The Chief, Division of

Policy and Programs approves communications to DOI recommending enforcement actions against a recipient.

- 2.** If DOI concurs with the recommendation for enforcement, it may refer the State recipient to a DOI hearing, which could result in the termination of Federal Assistance.
- 3.** DOI may also refer the case to the Department of Justice for legal action.
- 4.** DOI cannot suspend or terminate Federal assistance to the recipient until it:
 - a.** Advises the State recipient in writing of its failure to comply,
 - b.** Provides an opportunity for the recipient to voluntarily comply,
 - c.** Gives the recipient an opportunity for a hearing, and
 - d.** Obtains the Secretary of the Interior's approval of the action.
- 5.** The sanction can be finalized only after the Secretary of the Interior has filed a written report of grounds for the action with the appropriate committees of the House and the Senate.

Appendix A

Post-Award Compliance Review Information

To conduct a Post-award Compliance Review of your State, the Regional civil rights office may require access to all or a portion of the following information (this list is not all-inclusive).

1. An organizational chart of your agency showing the different organizational segments and managers and outlining the specific responsibilities.
2. A current list specifying, by name, race, and ethnicity, all members appointed to advisory boards or planning bodies associated with the programs and activities of your agency.
3. A current inventory of all educational activities your agency conducts.
4. Racial and gender statistics for the most recent State fiscal year, showing the extent to which minorities and women participated in your educational activities and other programs your agency sponsors (43 CFR Part 17, Subpart A, Section 17.5 and 43 CFR Part 41).
5. A description of programs currently offered to the public.
6. Five samples of information your agency distributes to the public to acquaint them with benefits and services offered; for example, brochures, newsletters, magazines, pamphlets, etc.
7. A description of methods your agency uses to inform the public of their rights to file a complaint of alleged discrimination on the basis of race, color, national origin, sex, age, or disability.
8. Costs and criteria for licenses and permits your agency offers.
9. A description of the recruitment and selection process for instructors for educational programs.
10. A complete list by name, race, ethnicity, and gender of instructors qualified to teach education classes open to the public. A list of fees students must pay to receive the agency-sponsored training.
11. In general, the locations of education classes (e.g., schools, clubs, or private residences), and how the agency informs the public about the availability and location of classes.
12. A description of procedures your agency uses to handle complaints of alleged discrimination and the name of the persons(s) assigned responsibility for these complaints.
13. Five samples of agreements signed by vendors, contractors, and subgrantees, to review assurance statements.

14. A description of outreach activities to communities serving diverse populations.
15. A list of minority and disability organizations contacted for outreach purposes and that have formed partnerships with the State. The list should include contact person, phone number, e-mail address (28 CFR Part 42, Section 42.106 and 43 CFR Part 17, Subpart B, Section 17.205).
16. A description of waste disposal policies, including emissions of toxic wastes into the air, land, or water from your agency's facilities, and the impact of such policies on minority and low income neighborhoods (43 CFR Part 17, Subpart A, Section 17.3 and Executive Order 12898).
17. A copy of an environmental assessment/environmental impact statement, reflecting public scoping efforts and consultations with minority and low income communities, in accordance with the Council on Environmental Quality's "Environmental Justice Guidance Under the National Environmental Policy Act."
18. Estimates of the numbers and percentages of program beneficiaries with Limited English Proficiency (LEP), and estimates of the frequency of contact with these LEP groups. Descriptions of the language(s), the nature of the programs affected, and efforts to provide oral and written translations to LEP groups. Copies of State agency LEP plans.
19. The most recent Self-Evaluation and Transition Plan required by 43 CFR Part 17, Subpart B, Section 17.205 and Section 504 of the Rehabilitation Act.
20. Five samples of public notices and announcements of public meetings.
21. Copies of grievance procedures covering Section 504 and Title IX of the Education Amendments of 1972, including the name, telephone number, and e-mail address for both your Title IX Coordinator and Section 504 Coordinator.

Appendix B

MODEL ASSURANCE STATEMENT

“By signing this statement, I agree that I/my organization is subject to:

- Title VI of the Civil Rights Act of 1964,
- Section 504 of Rehabilitation Act of 1973,
- Title II of the Americans with Disabilities Act of 1990,
- The Age Discrimination Act of 1975, and
- Title IX of the Education Amendments of 1972.

I/my organization offers all people the opportunity to participate in programs or activities regardless of race, color, national origin, age, sex, or disability.

I also agree that I/my organization will not turn away or deny any person access to or benefit from any program or activity on the basis of race, color, national origin, age, sex (in educational activities), or disability.

NOTE: Recipients of fish and wildlife conservation assistance should sign an Assurance Statement if:

- 1. The premises are at any time open to the public, or*
- 2. They hold Hunter or Aquatic Resources Education or any other information/education program on private property.*

This is not a required form. It is an example of key information required in a civil rights assurance statement.

Appendix C

MODEL NOTIFICATION CLAUSE

All publicly distributed program materials, regulations, brochures, and program or course applications should contain a clause similar to the one below.

Example

This program receives Federal financial assistance from the U.S. Fish and Wildlife Service. Under Title VI of the 1964 Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, sex, or disability.

If you believe that you have been discriminated against in any program, activity, or facility, or if you need more information, please write to:

The Civil Rights Coordinator for Public Access
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Mail Stop: WSFR-4020
Arlington, Virginia 22203

[Directives Home](#)

PDM Web sites: [Centralized Library of Servicewide Policies](#) | [FWS Forms](#) | [PDM Services](#)

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