



U.S. Department of Agriculture
National Institute of Food and Agriculture
Washington, DC 20250

CIVIL RIGHTS COMPLIANCE REVIEW GUIDE

Research Programs and Projects

Civil Rights Compliance Review Guide^{*}

This civil rights compliance review guide is for the use of NIFA-USDA equal opportunity specialists in conducting State Research Reviews. The guide, also serves as the primary document to help Research administrators, faculty and staff prepare for a civil rights review. Equally important, the guide serves as an educational document that is necessary to assure that state recipients are working in compliance with equal opportunity policies in the implementation of Research programs and projects; and that every customer and colleague is treated with fairness, equality, and respect; and that recipients are inclusive and have adequate diversity. Compliance reviews are regular, systematic, inspections required by USDA and the Department of Justice civil rights regulations.

NIFA Equal Opportunity Specialist will use the guide as the basis for a Civil Rights review. Additional information, data and/or documentation will be requested as needed. State partners should not send program information and data prior to an on-site review without consulting with the Director of NIFA-Equal Opportunity staff.

^{*} The review guide was developed with input, direction, guidance, and technical assistance from State land-grant universities faculty members and administrators, including representatives from ESCOP

**National Institute of Food and Agriculture
Guide for Civil Rights Review of
Cooperative State Research Programs**

For USDA/NIFA Administrative Use Only

Preamble

General

National Institute of Food and Agriculture (NIFA) and its Research partners recognize the importance of diversity and inclusion in the development and implementation of Research programs. These Research programs must be handled in a manner that treats every beneficiary and employee with fairness, equality, and respect. This applies to all aspects of the Research program including identifying research needs, setting priorities, allocating resources, selecting and assigning scientists, professional support staff, research associates, and administrative staff, conducting programs, and getting feedback.

In accordance with United States Department of Agriculture civil rights regulations 7 CFR 15 any recipient of federal financial assistance, regardless of the amount, is subject to Civil Rights reviews. Further, ... “In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under the regulations in this part” ...¹ The primary recipient of federal funds for research programs and projects is responsible for civil rights administration.

Civil Rights reviews, conducted by NIFA, are intended as part of a proactive effort to determine how well Research projects and operations are being done on an equal opportunity basis by recipients in compliance with civil rights laws, rules and regulations. Reviews are planned and organized jointly between NIFA and the institutions. The review process has flexibility to recognize differing demographic makeup of State partners. Whenever possible, reviews will be conducted with participation from Research programs in 1862 and 1890 Land Grants and as appropriate including 1994 Land Grants and Hispanic Serving Institutions, as well as other relevant organizations receiving Research funding.

There are a variety of circumstances which may prompt NIFA to schedule a civil rights compliance review of a State Research institution or recipient.

- USDA may direct CSREES to conduct a compliance review of a research institution.
- The Department of Justice may conduct a review of NIFA and/or a research institution.

¹ 7 CFR Subtitle A (1-1-02 Edition) §15.5 (b), page 364.

- Reviews may also be requested by a research institution/recipient or initiated by NIFA at any time.

Purpose and Relevant Legislation

USDA Civil Rights regulations require NIFA to determine whether or not recipient research institutions are in compliance with the nondiscrimination and equal opportunity provisions contained therein. To implement these provisions, NIFA is required to carry out regular compliance review inspections designed to measure the overall status of compliance of research recipients. The NIFA review will focus on those aspects that are covered by the Federal statutes prohibiting discrimination based on race, color, national origin, gender, age, and disability.

NIFA Civil Rights compliance reviews are conducted consistent with the following major statutes and Departmental Regulations:

- Title VI of the Civil Rights Act of 1964, as amended, 42 USC 2000d.
- Section 504 of the Rehabilitation Act of 1973, as amended, 19 USC 794.
- Americans with Disabilities Act of 1990, 42 USC 12101 et. seq.
- Age Discrimination Act of 1975, 42 USC 601 et. seq.
- Title IX of the Education Amendments of 1972, et. seq.
- Civil Rights Restoration Act of 1987, P. L. 100-259, as amended by, Civil Rights
- Restoration Act of 1991, P.L. 102-166.
- USDA DR 4330-2, Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from USDA, dated March 3, 1999.

The complete list of statutes and Departmental regulations are located on the Department's website: <http://www.usda.gov/da/directives.htm>. The Department of Justice (DOJ) regulations, contained in 28 CFR 42.401, coordinate civil rights compliance activities for USDA programs. DOJ evaluates the Department's compliance operation to determine if the applicable nondiscrimination laws, rules and regulations are being fully implemented. DOJ's compliance regulations are located at website: <http://www.usdoj.gov>. EEO/Civil Rights information on program compliance reviews can also be accessed from the Civil Rights button on the NIFA homepage.

The Office of Civil Rights within the Department of Agriculture is assigned responsibility by the Secretary of Agriculture for conducting compliance reviews of recipients of USDA financial assistance. The Office of Civil Rights develops standards for USDA agencies' civil rights compliance review procedures and reviews agencies proposed directives, guidelines, and procedures.

NIFA is responsible for assuring that its research partners are meeting the specific obligations of nondiscrimination and equal opportunity associated with the USDA civil rights rules and regulations. NIFA is responsible for reviewing of recipient institutions activities on a continuing

basis to assess their compliance with the Department's civil rights rules and regulations. NIFA Equal Opportunity Staff (EOS) plan, organize, and conduct such civil rights reviews.

Each State research institution or recipient is responsible for establishing internal policies and guidelines to ensure that research projects and operations do not discriminate and that research projects and activities are done without regard to race, color, national origin, sex, age, or disability. Research institutions or recipients are expected to have available the appropriate documentation, records, and source of information related to the items included in this guide.

Process

Once a research institution has been selected and scheduled for review, by NIFA, a letter is sent to the head of the research institution advising him/her of the anticipated date for commencement of the review.

The NIFA reviews will be initiated by the Equal Opportunity Staff contacting the research directors/Administrators in the State to discuss the process, any special issues, and to establish the schedule and locations for the review.

In conducting a compliance review, the NIFA review team will need adequate information about the Research operations. Such information includes plans of work, which are viewed as the Research commitment to carry out Research programs. Compliance review specialists, in particular instances, may also need specific information pertinent to employment decisions to determine the impact on Research projects and activities.

The review will seek to gain a comprehensive understanding of what the State Research officials are doing to ensure nondiscrimination in the operations of research activities of scientists, research workers, research associates, and administrative staff in the research actions of projects and how they conduct educational programs for staff on civil rights topics and how they take corrective action when discrimination occurs.

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The following sections identify the basic components and the process for a review.

Areas for Review for Research Programs

1. Management Organization

Assess the management organizational structure of State research programs and/or recipients of federal financial assistance for research programs or projects. Recipients of federal financial assistance should have a clear organizational structure for civil rights/diversity administration including but not limited to the identification of a person responsible for civil rights.

- a. Identify the organizational structure by providing an organization chart at the 1) University level; 2) Agriculture Experiment Station level; and 3) research organizational level by outlining the recipient's relationship to academic departments or units receiving federal financial assistance.
- b. Identify within the organization the level of responsibility for administering research programs and/or projects.
- c. Identify Civil Rights/Diversity structure of the recipient of federal financial assistance.

2. Resource Allocation

Assess the extent to which resources for supporting research have been allocated on a nondiscriminatory basis.

- a. Identify the process by which research projects are selected to receive funding. A written description of the process should be easily available to all potential recipients of research funds (availability might be achieved by a regular distribution through e-mail or in hard copy or by posting on a website).
- b. If the process for selecting research projects includes review or selection by a committee, identify criteria/considerations used to select members of the committees. Provide best available data on current members by race, ethnicity, and gender. Describe recent efforts to achieve and maintain diversity in these groups.
- c. Identify the criteria/considerations used to determine start-up packages provided for researchers. Those who establish the amount for start-up packages are encouraged to make periodic reviews of those awards to assure the criteria/considerations are used consistently.
- d. Identify criteria/considerations used to allocate laboratory and research facilities/space/equipment, and to allocate support staff (technicians, secretaries, and others) to researchers.
- e. Identify mentoring efforts for new faculty and staff including how mentors are selected and assigned and efforts to assure appropriate mentoring for each faculty and staff member.
- f. Identify criteria/considerations used to select members for advisory and stakeholder groups. Provide best available data on current members by race, ethnicity, and gender. Identify efforts that have been made to achieve and maintain diversity in these groups.

- g. Identify existing stakeholder and advisory groups with which administrators and faculty most often interact and potential advisory groups with which there is seldom or never interaction. Identify reasons for the limited interaction with the latter.
- h. Describe efforts to involve new and more diverse sources of input for determining research needs.
- i. Establishing, where appropriate, a mutually developed, coordinated and implemented comprehensive Research program and/or project administration between 1862 and 1890 land grant and/or minority serving institutions.

3. Graduate Students

Graduate Students often serve an integral role in NIFA funded research projects. Assess the following graduate student related data for the appropriate administration of the functional unit receiving NIFA research funding such as departments, colleges, and Experiment Stations. Include historical trends to the extent data is available.

- a. Identify methods used to recruit graduate students. Identify how traditionally under- represented students have been reached.
- b. Review data on gender, race, and ethnicity of current graduate students. Distinguish between domestic and international students.
- c. Review attrition and completion rates of graduate students by race, ethnicity, and gender including those who come for a PhD but leave with less than a terminal degree.
- d. Identify methods used to notify graduate students of available scholarships and awards, and describe the process for selecting recipients, including how the needs for diversity are addressed.
- e. Describe the process for awarding graduate assistantships and how funds are allocated.
- f. Describe how graduate students are assigned to research projects.
- g. Describe efforts to advise graduate students of local resources and to assist them in identifying relevant supportive communities--especially women and minority students.

4. Employment

All components of the university, college, department, and agency are subject to equal employment opportunity laws prohibiting discrimination on the basis of race, color, national origin, religion, age, gender, and disability. Statutes pertinent to programs receiving Federal financial assistance also prohibit employment discrimination if it is a pattern and practice, and/or if it is having an adverse impact on research projects and operations.

- a. Examine the employment profile of Experiment Station employees (as defined by each State) according to current United States Department of Labor or comparable categories. [Consult the university's equal opportunity/affirmative action office for U.S. Department of Labor's employment profiles that are relevant to the research sections.]
- b. Where the primary recipient of federal financial assistance has extended the financial assistance to another recipient, the primary recipient must provide assurance that the recipient adheres to non discrimination in research programs and projects.

5. Professional Development and Promotion

Professional development enhances a person's qualifications for promotions and job opportunities. Assess the extent to which professional development opportunities are equally accessible to all faculty and staff.

- a. Review university policies and procedures to assure equal accessibility and opportunity for faculty and staff to participate in professional development, upward mobility, and career enhancement activities.
- b. Determine faculty and staff's awareness of policies and procedures relating to professional development and promotion and the extent to which the policies and procedures have been implemented and used by faculty and staff.

6. Civil Rights and Diversity Training for Faculty and Staff

The institution is responsible for helping faculty and staff to understand civil rights laws, rules, regulations, policies, and procedures, and to value diversity and inclusion within the organization. Assess the extent to which this is being accomplished and the relationship to diversity.

- a. Determine availability and frequency of training events and opportunities for faculty and staff on diversity and civil rights laws, rules, regulations, policies, and procedures.
- b. Identify the extent to which faculty and staff have participated in civil rights training.
- c. Determine the availability to employees of essential civil rights information and material. (Such a file or web page could include civil rights evaluation plans, lists of applicable statutes, NIFA and university policies, prior civil rights review findings, etc.).
 - 1) Determine faculty and staff familiarity with the applicable Federal civil rights laws, rules, regulations, policies, and procedures.

- 2) Determine faculty and staff familiarity with content, location, and availability of applicable university policies and procedures concerning civil rights and diversity.

7. Internal Evaluation Plan of Civil Rights Activities

Most institutions and organizations have developed an internal evaluation plan to delineate civil rights policies and procedures and to assess compliance with them.

- a. Determine the extent to which an annual evaluation plan has been developed and implemented. Interview appropriate faculty and staff to determine if there has been periodic internal reviews of the plan, and if faculty and staff have been given the opportunity to review and comment on the plan.
- b. Review internal and external communications regarding civil rights and diversity issues to determine if there has been periodic communication between Civil Rights/Equal Opportunity staff and Deans, Directors, and department heads.
- c. Review methods for identifying problem areas and developing plans to improve accessibility to research programs and facilities.
- d. Verify that there are procedures in place for persons to file a civil rights complaint.

8. Public Notification

The institution and/or recipient of federal funds is responsible for informing the public, including traditionally underrepresented and underserved groups, of the institution's responsibilities regarding civil rights. Assess the extent to which this is being accomplished.

- a. Review written policy statement, objectives of evaluation plan, and procedures for informing the public of NIFA's and State's responsibilities regarding Civil Rights laws, rules, regulations, policies, and procedures.
- b. Verify that the USDA "And Justice for All" poster showing the nondiscrimination policy statement and how to file a civil rights complaint is properly displayed in areas of institutional facilities visited by the public, and verify that this information is printed on appropriate publications.
- c. If applicable, verify that the institution's civil rights policy statement has been distributed to organization and union officials representing faculty and staff.
- d. Identify efforts that have been made to disseminate relevant research information to people from traditionally underserved populations such as women, people of color and individuals with disabilities.
- e. Identify how research information is made available to users in a non discriminatory manner.

9. Accessibility to Research Information and Facilities

The institution is responsible for making its programs and facilities accessible to all beneficiaries and employees. Assess the extent to which this is being accomplished.

- a. Identify efforts taken to eliminate barriers for people with disabilities as required by Section 504 of The Rehabilitation Act. (Examples include, providing programs in accessible facilities, providing sign language interpreters, inviting individuals with disabilities to request reasonable accommodation, providing information/research results in alternative formats when requested. Include accomplishments reported under the Americans with Disabilities Act's (ADA's) Self-Evaluation Plan, where relevant.)

10. Limited English Proficiency (LEP)

Assess use of a LEP policy especially in the areas of safety and health.

- a. Review the extent Research programs are utilizing Limited English Proficiency (LEP) policies and procedures.
- b. Identify efforts to provide relevant research information to people with LEP.