United States Department of Agriculture
Office of the Secretary
Office of Civil Rights Enforcement
Washington, D.C. 20250

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TO: Agency Heads
Civil Rights Directors
USDA Employee Organizations

FROM: George S. Robertson
Acting Director
Policy Analysis and Coordination Center-Civil Rights

SUBJECT: Notices of Special Events and Other Activities Sponsored by or Held in USDA Facilities

It has come to our attention that notices are being forwarded to employees of the Department of Agriculture (USDA) citing meetings, special events, "kick off campaigns," training opportunities, and other activities that do not list how attendees with special needs can inform those responsible for the event of their accommodation needs.

For instance, when the Department or an agency disseminates a flyer outlining an upcoming training event, the Department is obligated under the Rehabilitation Act of 1973, as amended to ensure that qualified individuals with disabilities are afforded equal participation.

This very important obligation is very easy to meet. First of all, an individual needing accommodation must have a method to inform the provider of his/her needs. Secondly, the provider of the activity has the obligation of providing appropriate accommodation to qualified individuals with disabilities. The simplest way to achieve compliance is to assure that your employees are aware of this obligation, and that all flyers, including those relative to training, meetings, or other activities provided by employee organizations, and outside sources, include language similar to the following example at the bottom of the notice.

> "If you need an accommodation, please notify Ms. Jane Doe by Monday, September 31, 1999, on (202) 777-6435 (v) or (202) 777-6436 (tdd)."

Such notice allows the provider of the activity enough opportunity to arrange for any special needs that may arise. The most common occurrence will be for sign language interpreters for employees with hearing impairments. Too many times our employees with hearing impairments are not able to equally participate in special activities. We all must ensure that this no longer occurs. By placing a notice on all flyers and other media, we provide an equal opportunity for all to participate.

We also recognize that many employees of the USDA prefer the term "tty" or teletypewriter to "tdd" (telephone device for the deaf). The Policy Analysis and Coordination Center-Civil Rights recommends that all agencies follow the lead of the Department of Justice in its guidance on the Americans with Disabilities Act, and defer to the term "tdd." Also, please be advised that it is the policy of the Department to provide reasonable accommodation to all who are qualified; that is, who meet the definition of "disabled."

If you or any of your staff have any questions or concerns regarding when to provide an accommodation, and when such accommodation is not required, please contact our policy office, and we will assist you in determining your obligations. We thank you for the opportunity to serve the agencies of the USDA, and look forward to other such opportunities.

Agencies should include statements in all **Federal Register** notices, pamphlets, manuals, and other publications to inform the public that copies of these issuances are available in alternative formats upon request.

If an agency uses television and radio announcements to communicate with the public, such announcements should include a statement that any advertised publication may be made available in alternative format(s) for qualified individuals with disabilities.

F. USDA Alternate Format Statements.

Listed below is the latest guidance concerning the USDA Nondiscrimination Statement which is required to appear on all documents, publications, **Federal Register** notices, etc. The CR issued this guidance through a Departmental Regulation (DR 4300-3), February 25, 1998. The Departmental Regulation states:

> "The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).
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> "To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, S. W. Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."
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> The Departmental Regulation further states that:
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> "If the material is too small to permit the full statement to be included, the material will at a minimum include the statement, in print size no smaller than the text, that "The USDA is an equal opportunity provider and employer." A rule of reason will be applied as to the need for the statement in specific situations."

15. Audio-Visual (film, videotape, television, TeleVideo, satellite, etc.) Presentations.

As with other obligations of the Self-Evaluation, audio-visual presentations are methods of aurally- and visually-delivered information. Each agency must assure that the contents of such presentations are made available to individuals with hearing and visual impairments. There are several ways that this can be accomplished depending upon the medium and purpose of the presentation.

All USDA agencies, when preparing presentations, will ensure that any audio-visual materials used are available for participants with hearing and sight-impairments.

All videotapes, public services announcements and other forms of visual shows must be captioned for persons with hearing impairments, or other methods provided to guarantee that participants are effectively receiving the information imparted. (Please note that it is easier for a hearing-impaired person to watch a videotape and the captioning beneath the picture than to watch a video and a sign language interpreter, simultaneously.) For persons with sight-impairments, the presenter must always be aware of any slides, videotapes, overheads or other visual materials being used, and as they are used, narrate the purpose of the materials and their content.

When the USDA employee or contractor preparer of a presentation knows who will be in attendance, and that none of the participants will need such services, then, there is no need to provide them.

An example would be a regional office employee showing a videotape at a Rotary meeting. Rotary meetings are usually closed to nonmembers. Thus, it would be easy for the presenter to determine if any of the members need the information provided in an alternate manner. If no Rotarian needs accommodation, then showing a video without captioning or verbal description would not violate any disabled person's right to equal access to the video information.

Conversely, if the USDA or an agency, hosts a celebration for the public in the South Building cafeteria, and there is no way to assure that no individual needing these services will be attendance, the USDA representative responsible for the event must ensure effective communication of the activity. A sign language interpreter should be provided to interpret proceedings; or, if a videotape is to be used, a captioned version should be shown. Remember that if there is additional activity beyond the videotape, an interpreter will also be required.

There are several ways to make audio-visual presentations accessible. Examples include: narrating a video or other written presentation for a person with a visual impairment, and/or assuring that all videotapes and films have captioning.

There is much discussion regarding whether the captioning should be open or closed. Open means that it is seen scrawling across the bottom of the picture and cannot be altered. Closed means that it is available if the monitor is equipped with a decoder to allow the closed captioning to be revealed, as necessary.

Either procedure complies with the requirement to ensure equal opportunity to participate. However, the latter requires a monitor with decoding capability. Such capability is required by Federal law in all monitors thirteen inches or larger made after April, 1993. If the presenter cannot guarantee that the monitor has decoding capability, and the tape is closed captioned, then sign language interpreter services or a tape having open captioning must be provided.

Each agency will be responsible for ensuring that all presentations containing audio-visual materials comport with this obligation. For assistance, Agency personnel should contact the Office of Communication or the OCR for assistance to ensure compliance.

In Sections A-D, below, is specific guidance concerning review of policies and practices relative to assuring access to public meetings for individuals with disabilities. Applying the guidance found in these examples to all the policy and practices of an agency will ensure a thorough Self-Evaluation process resulting in maximum equal opportunity to individuals with disabilities.

A. Access to Public Meetings.

The Department of Justice has provided specific guidance to ensure that persons with hearing-, visual-, and mobility-impairments have access to public meetings. Public meetings are those meetings to which access is not restricted except by the topic of the meeting or the size of the facility. Public meetings must be held in architecturally accessible sites, to the extent necessary to permit access to the meeting room and other conveniences.

Notifying the public about meetings through the newspaper or any other single general medium may not be effective in providing notice to persons with sensory impairments. When giving public notice, agencies will ensure that the notification will reach individuals with disabilities who may be interested in attending the meeting.

Agencies planning to conduct public meetings should include in all announcements about the meeting, a notice indicating the provision of services of the kind discussed in B, C, and D below will be made available for persons with disabilities. The notice will include the name, address and telephone number (both voice and TDD) of a person to contact about these services.

The announcement should request that individuals with disabilities inform the meeting sponsor of their need for special services far enough in advance of the meeting to enable the sponsor to secure each service. This is usually achieved by including a specific date by which request for special services must be received. The amount of advance notice required and feasible may depend on the nature of the meeting and how much notice the sponsor provides the public.

For additional information on planning accessible meetings, refer to "A Guide to Planning Accessible Meetings," distributed by the government-sponsored: Independent Living Research and Utilization Program, Suite 1000, 2325 Sheperd Street, Houston, TX 77019, (713) 520-0232 (V or TDD).

B. Access for Deaf and Hearing-Impaired Persons.

Examples of accommodation requests and service that may be provided to assure equal opportunity to deaf and hearing-impaired individuals include:

i) Sign language interpreters.

Interpreters are certified and can send and receive sign language fluently. They are also skilled at oral interpretation should there be a need for this type of interpretation to be provided. It is the responsibility of the agency convening the public meeting to provide and pay for interpreter services. It is not the responsibility of the convening agency to pay for any interpreter that the attendee brings to the meeting.

ii) There should be at least two interpreters available for meetings likely to exceed two hours so that one can relieve the other.

iii) Meeting rooms should be well-lighted so that the interpreter can be easily seen by deaf and hearing-impaired persons. Hearing-impaired attendees should be able to see the speaker and the interpreter at the same time. If the room in which the meeting is being held is large, seats for hearing-impaired persons should be reserved close to the interpreter.

iv) Speakers should be instructed to speak clearly and at a moderate pace to facilitate sign translation. Speakers should also be instructed to clearly identify themselves, either by raising their hands or standing, so that the interpreter and hearing-impaired persons can easily identify who is speaking.

v) If audio-visual presentations are made during the meeting, the material should be either signed or captioned. If the presentation is signed, special steps should be taken to ensure that the presentation and the interpreter are visible to the deaf/hearing-impaired person at the same time, and that the lighting is adequate.

vi) Assistive Listening Device (ALD) system. In brief, an ALD is a device that will pick up a sound at or close to its source, amplify that sound, and then deliver it directly to the user's ear. There are

several different types of ALD systems that can be utilized, all of which have their advantages and disadvantages depending on the size and type of room, how many people will be using it, and the system's cost.

vii) If the meeting planner(s) knows beforehand that no attendee will need services, then do not provide them. If, however, the meeting is open to the public and/or there is no way to ascertain who may attend, then access for hearing-impaired persons must be provided.

C. Access for Visually-Impaired Persons.

i) Meeting room should be well lighted.

ii) If printed material related to the proceedings is distributed prior to the meeting, the material should be made available on tone or speech indexed audio tape, if requested.

iii) If printed material is to be read during the meeting in order for attendees to participate effectively, then readers for the blind and visually-impaired should be provided.

iv) If there will be blind or visually-impaired participants or attendees at the meeting, the sponsor should consider the use of large print and/or Brailled agendas.

v) If a transcript of the meeting is made available to the general public, it should be made available to blind and visually-impaired persons. For example, if a transcript is produced and made available for public inspection, a tape recording of the proceedings or readers should be made available on request to assist blind and visually-impaired persons in using the document. If meeting transcripts are distributed to the public, tone or speech indexed audio tape copies of the transcript should be made available to blind and visually-impaired persons.

D. Access for Mobility-Impaired Persons.

i) The aisles of the meeting room should be inspected prior to the meeting to assure easy passage by persons using wheelchairs. If the design of the meeting room makes it difficult for mobility-impaired persons to gain full access to the room, the meeting sponsor should be prepared, on request, to provide assistance to mobility-impaired

persons. For example, if the aisle gradient is too steep to be negotiated independently by a person in a wheelchair,. individuals should be made available to assist the individual.

ii) Open, level areas that are not situated along emergency egress routes should be available for persons in wheelchairs. If the meeting is conducted in a sizable assembly area, guidance can be found in the Uniform Federal Accessibility Standards (UFAS) as to how many seats should be set aside to be used by persons in wheelchairs.

iii) The entry doors to the meeting room should have clear opening widths of at least 32 inches.

4. Information and Training for Staff.

Through the Self-Evaluation process, it should be determined if agency staff members are familiar with policies designed to enable individuals with disabilities to fully participate in the program and activities of the Agency. If needed, special training sessions may be appropriate or disability concerns factored into regular training programs.

Steps must be taken to ensure that:

A. all staff fully understand the agency's policies assuring nondiscrimination on the basis of disability; and

B. the steps required to be taken by the agency to facilitate the participation of individuals with disabilities in agency programs and activities.