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A Message from Secretary Tom Vilsack



We have just begun the 4th annual Feds Feed Families food drive – and I'm writing to ask for your help in making this year's food drive the most successful yet.

The fact is, many of our fellow Americans are working hard but still having trouble making ends meet. Through a wide variety of food assistance programs, USDA helps one in four Americans put healthy food on their plate. But we also have help from food banks and nonprofit organizations across the country – from our biggest cities to our small towns and rural communities.

Those partners need our help this summer. Last summer, USDA donated 1.79 million pounds of perishable and non-perishable food through Feds Feed Families, including fresh produce grown in People's Gardens across the country and from partnering with farmers and neighbors in local gleaning efforts. This tremendous accomplishment exemplifies your commitment to serving the American people. This year, I hope we can do even better. If every USDA employee donates just two pounds of food per week this summer, we will donate more than 2 million pounds – providing Americans with an abundant source of

healthy food, and helping hard-working families get a leg up. That's integral to our mission here at USDA, and I'm proud of the impact we can have when we work together.

You can start today by dropping off non-perishable goods in the bins near offices in the Washington, DC metro region, or by registering your food drives across the country at: <http://tinyurl.com/USDAFeedsFamilies>.

If you have additional questions, each USDA Agency has a captain for this effort, or you can email: [col-laborate@usda.gov](mailto:col-laborate@usda.gov).

Thank you for the work you do every day – and thanks in advance for your support for food banks and American families.



Thomas J. Vilsack  
Secretary  
USDA



NRCS Holds First Civil Rights Day

"All NRCS employees are expected to model equal opportunity, civil rights, and cultural transformation, and managers and supervisors must demonstrate an elevated regard by supporting civil rights, equal employment opportunity, diversity, and cultural transformation."

NRCS Chief Dave White

In support of this statement made by Chief Dave White, the NRCS Civil Rights Division (CRD) hosted its first Civil Rights Day on June 13, 2012, at the USDA South Building in Washington, D.C. The event's theme "CR Me" encouraged all NRCS employees to embrace and embody Civil Rights principles in their everyday work within the NRCS network. In the days leading up to the event, CRD spent a day updating all NHQ NRCS bulletin boards to ensure they displayed the most recent Civil Rights policy statements and information. Along with updating the bulletin boards, CRD made sure as many employees as possible were informed and cordially invited to the event.



Throughout the duration of Civil Rights Day, which took place from late morning to mid afternoon, over 100 employees visited the event stationed outside of Chief White's office. Andy Cao-Pham and Janae Dandridge, CRD's student interns, were there to host the event, interact with employees, and answer CRD related questions. All visitors were briefed on CRD's mission and vision, and the services the division provides for both NRCS customers and employees. Those who were unfamiliar with CRD and wanted to learn more about Equal Employment Opportunity (EEO) and Equal Opportunity in Programs (EOP) received several resources. These resources included the Civil Rights Informational Guide, Limited English Proficiency (LEP) handbooks, The EEO Complaint Process Manual, and much more.

For those who knew more about Civil Rights, CRD tested their knowledge with an interactive Civil Rights trivia game. While some of the questions may have been tricky for even tenured NRCS employees, several participants including Associate Chief, James Gore, rose to the challenge and earned a "Got Diversity?" t-shirt! Prize raffles, giveaways, and mints were also a part of the day's festivities.

It can be said that the first Civil Rights Day was a great success! When asked about the event, student intern Andy Cao-Pham says, "It was definitely a memorable and enjoyable time. Sharing what we do with people and letting them know we are here for them was the goal and I believe we fully accomplished that!" CRD appreciates the support it received from NRCS leadership and employees.

If you were unable to attend CRD Day, all resources are available online at the CRD website.



CRD intern, Andy Cao-Pham updating Civil Rights postings at NHQ.

## NRCS Civil Rights Division Civil Rights Compliance Review Success Stories

### Idaho NRCS Employee Partners with National Park Service in Grand Outdoor Event

Contributed by Roger Amerman, Soil Conservationist, Orofino Field Office



On November 19, 2011, I made my way from Idaho back to the land of my tribal ancestors - the Mississippi Gulf Coast. I went back to assist the National Park Service and Gulf Islands National Seashore with the "Let's Move Outside! Healthy Parks, Healthy People" event at Davis Bayou in Ocean Springs, Mississippi. The event was an excellent opportunity for children and their families to experience the outdoors by engaging in active outdoor recreational and educational opportunities. Through this event the cadre was able to increase the public's knowledge of environmental stewardship, health and wellness, healthy lifestyles and nutrition.

The event was associated with and supported by First Lady Michelle Obama's "Let's Move!" 2010 initiative to end childhood obesity in a generation. An important objective of the event was to establish awareness of the high obesity rate in the State

of Mississippi. The event was attended by 600 people and featured a variety of activities including kayak/pontoon tours, nature hikes, healthcare screenings, a Native American encampment, and much more. I assisted in the coordination, design, and implementation of a traditional Native American encampment which featured the culture and heritage of southeast U.S. tribes including the Choctaw, Tunica-Biloxi, Cherokee, Houma, and Coushatta.

On the day preceding the family event, the planning team hosted a student field day for a diverse group of 150 sixth graders from a school district in nearby Biloxi, Mississippi. The students primarily came from the Asian, Black, and Hispanic communities of Biloxi. The students actively engaged in the "web of life" game, botany hike, pontoon boat tour, and cast net fishing.

### Alliance Improves Quality of Life for Rural Mississippi Farmers

The Mississippi Civil Rights Compliance Review Team had so many great experiences seeing NRCS program in action and succeeding through outreach efforts of local employees. As background, one of the team members had the privilege to go to Holmes County Mississippi where she met Mr. Keith Benson of the Alliance for Sustainable Agricultural Production.

The Alliance for Sustainable Agricultural Production is dedicated to improving the quality of life for poor, rural, and under-served communities. The Alliance accomplishes this mission by helping people to grow, process, market and distribute healthy and sustainable grown food: specialty vegetables, fruits, herbs, and spices.

The Alliance began with a core group of 14 local farmers (with from one to 500 acres) who are committed to healthy, sustainable grown food. Despite its challenges, Holmes County is blessed with rich soil, long tradition of farming, and concentrated land ownership by disadvantaged groups. The Alliance is incorporated, registered as a nonprofit corporation, and moving forward to implement pro-poor pro-rural interventions specifically designed to: improve farm profitability; increase consumer access of healthy foods; and expand market opportunities. In addition, the alliance is working to build and market a unified brand for local, healthy sustainable grown food.

The Alliance requested assistance from the LEADS Program at Tougaloo College in either offsetting the price of protective wildlife fencing or finding a vendor who could provide fencing at a prescribed price. Keith Benson, President of the Alliance, made an initial application to NRCS and was approved through the EQIP program to receive \$3.40 per foot to purchase a 1,300 foot fence. Other organic farmers with similar fencing needs are to successfully follow his example. Unfortunately, bids received for actual work ranged from \$12,094.56 to \$14,354.91. Benson was connected with State Conservationist Al Garner at the StrikeForce meeting in Holmes County. NRCS StrikeForce Director, Kurt Readus and other staff members provided follow-up on the fencing problem. The NRCS team met to discuss the cost discrepancy between the grant and the bids. NRCS considered raising the price of the grant based on quotes or invoices from other farmers who have purchased fencing over the past 12 months. They also reviewed vendor bids to see if someone can provide the service at a price closer to the grant amount.

NRCS increased the payment costs associated with the implementation of wildlife fences for all current contracts within fiscal year 2011. The following reflects the new cost associated with the practice:

#### Costs

Base Rate: \$6.45

Organic Rate/HU: \$7.74

The rate listed above is based on a statewide average cost. NRCS also offered to connect members of the Alliance for Sustainable Agricultural Production to vendors who could construct the fence at a rate lower than Mr. Benson was quoted. Mr. Benson reports that one vendor has agreed to construct the fence within the new quoted price range.

Their growing network of partners committed to accomplishing these objectives includes the core group of farmers, regional farmers markets, specialty market/end buyers, nonprofit organizations, government offices, sustainable/ organic farming experts, and others. With support, these strategies will transform the quality of life and economic landscape for poor, rural, under-served communities.



## Reasonable accommodation claim boosted by vacant position

*Petted v. Department of Veteran Affairs, 112 LRP 72 (EEOC. 12/14/11)*



**Ruling:** The Department of Veterans Affairs violated the Rehabilitation Act when it failed to make a good-faith effort to accommodate a mechanic for his disability.

**What it means:** When determining if a person with a disability is qualified for his position, an agency must look beyond his present position to other vacant funded positions he could hold.

**Summary:** An air conditioning equipment mechanic for the Department of Veteran Affairs alleged that the agency subjected him to discrimination based on disability (asthma), age (58), and reprisal when he was denied a reasonable accommodation, subjected to harassment, and not selected for a position. The EEOC found the agency violated the Rehabilitation Act when it failed to provide him with a reasonable

accommodation. The agency did not consider the mechanic to be “qualified” because he could not perform the essential functions of his position. The agency found there was no apparatus available to prevent him from inhaling toxic irritants while working in his position. The EEOC pointed out that an agency must look beyond the position an employee holds. The mechanic asked to be assigned to a position in the engineering department. The agency did not dispute that he could perform the essential functions of a vehicle operator position, and nothing showed the position would have affected his asthma. The EEOC found he was a qualified individual with a disability.

The EEOC noted that the reasonable accommodation review committee found that the mechanic was a qualified individual with a disability. The committee recommended that management perform a search for vacant positions that the mechanic might be qualified for. The search was conducted one

month before an operator position was filled. The EEOC noted that the clerical position the agency assigned him to was not equivalent to his mechanic position in terms of pay and status.

The EEOC found the agency articulated legitimate, nondiscriminatory reasons for not selecting the mechanic for a position when it explained that he did not have the experience that the individuals referred to the selecting official had. The mechanic failed to show pretext.

The EEOC also found that his harassment claim failed because management's actions were not severe or pervasive enough to alter the conditions of his employment or create an abusive working environment.

The EEOC found the administrative judge properly issued a decision without hearing because there was no genuine issue of material fact. However, the AJ erred in finding in favor of the agency on the reasonable accommodation claim.

## Nurse's inability to perform essential functions unravels claims

*Melendez-Miranda v. Department of Veteran Affairs 112 LRP 17726 (EEOC OFO 03/22/12)*

**Ruling:** The Department of Veteran Affairs did not subject a nurse to discrimination based on disability, age, or reprisal when she was terminated.

**What it means:** An agency is not required to transform a temporary light-duty or limited duty job into a permanent position to accommodate an employee's disability.

**Summary:** A registered nurse for the Department of Veteran Affairs alleged that the agency subjected her to discrimination based on disability (knee osteoarthritis), age (55), and in reprisal when she was terminated. The EEOC found that the agency did not subject her to discrimination. The EEOC assumed that the nurse was an individual with a disability.

The EEOC found she was not a qualified individual with a disability. Upon her return to work, she had difficulty walking and standing, and she had lifting restrictions. She was unable to perform essential functions. This posed a risk to the agency in emergency situations. The agency provided her with light-duty work for several months. It sought to provide her with a reassignment that accommodated her physical restrictions and had the same pay grade, but no such position was available.

The EEOC pointed out that the agency was not required to create a job for her or transform her light duty job into a permanent position to accommodate her disability.

The EEOC assumed that the nurse established a prima facie case of age discrimination and reprisal. The EEOC found that the agency articulated a legitimate nondiscriminatory reason for her termination when it cited her inability to perform the essential functions of her position.

**Defining It!**

**Reasonable Accommodation**

The Americans with Disabilities Act (ADA) requires employers to provide **reasonable accommodation** to qualified individuals with disabilities who are employees or applicants for employment unless to do so would cause undue hardship. In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

**Three (3) Categories of Accommodation:**

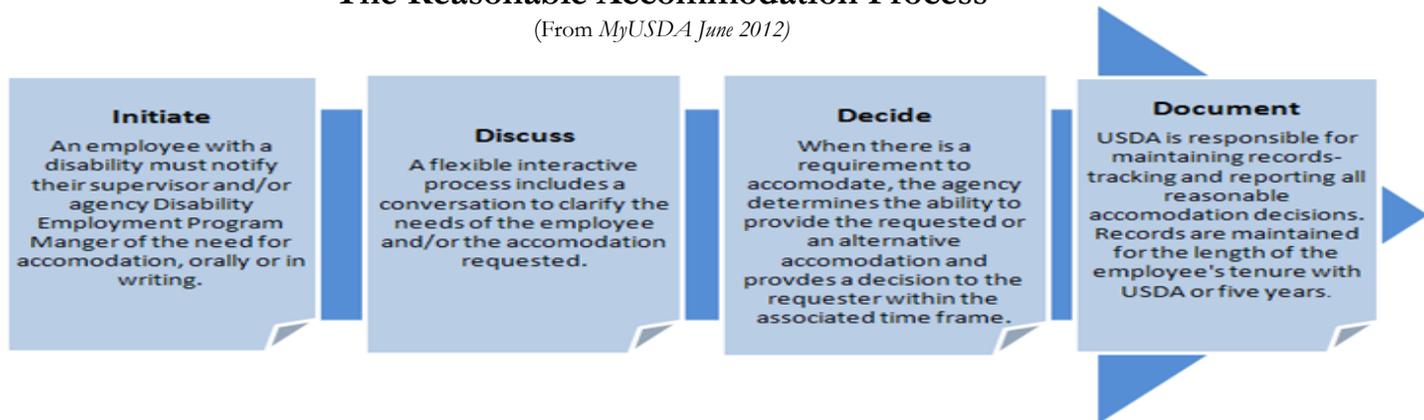
- Modifications to a job application process
- Modifications or adjustments to the work environment
- Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges that are enjoyed by other employees without disabilities

**Examples of Reasonable Accommodation:**

- Making facilities accessible
- Acquiring or modifying equipment
- Modifying work schedules
- Changing tests, training materials, or policies
- Providing qualified readers or interpreters

**The Reasonable Accommodation Process**

(From *MyUSDA June 2012*)



**NRCS CRD Director's Corner**

A word from the desk of Gregory Singleton, Director, NRCS Civil Rights Division

Chief White recently mentioned that by 2050 the world's population will be approximately 9 billion. He challenged leadership to think outside the box and come up with more ideas of how we as an agency will serve and provide for those 9 billion human beings. The Chief mentioned that waiting until 2050 to address this concern, was not, or perhaps could not, be an option. He went on to say that NRCS must start preparing today, for tomorrow, if we are to effectively and efficiently serve. So, as I began to think about what I could or would say in response to the Chief's challenge, a couple of things came to mind. First, while I will never profess to be a conservation expert, it seems to me, that one need not be an expert, to understand that if we as a nation don't conserve our resources, then 2050 will find us unprepared. As the Civil Rights Division, we conduct compliance reviews of 10 states annually to ensure compliance with Title VI and Title VII of the Civil Rights Act. Having said that, I want to applaud all of our states for their implementation of our conservation programs and assistance offered to our many customers! It gives me great hope that the many programs we offer to our customers are laying the ground work for tomorrow's customers and consumers. I participated in my first Civil Rights compliance review here at

NRCS a few years ago. The states and some of our customers were shocked that I left my office and actually came out to see what they did and how they did it. To me, it seemed only natural that if I was charged with ensuring compliance, I had to see it for myself. I went out on these reviews in nothing less than my usual attire: shirt, tie and suit. Only to realize that "out in the field" none of that was necessary. As I met farmers of many race, colors, ethnicities, and gender. I realized that they are the salt of the earth. So, needless to say now when I go on compliance reviews, I don't take as many suits, but I take the knowledge and expectation that our customers really appreciate what we do as an agency. Our customers really need and appreciate our conservation practices. So the first thing I would say to the Chief when responding to his challenge is: let's keep doing what we're doing. Let's keep ensuring equitable treatment and access to our customers while championing conservation. Now I know my first response was still "in the box", so this time I'm definitely shooting for the space around the box. Frankly, I keep thinking 9 billion people. What will the needs of 9 billion people look like? What role will NRCS play? What responsibilities will we shoulder?

Simply put, I came up with one word: Entrusted. As human beings have been entrusted with our planet. **An as an agency, we have been entrusted with our customers and each other.** So the last thing I would say in response to the Chief's charge is: Let's be vigilant in our use of technology to develop new conservation practices. Let's continue to be a leader by creating new opportunities for success for our customers. Let's use social media to learn of our customer needs and communicate with the customer. Let's integrate new outreach strategies that eradicate barriers for our underserved population. Let's help ensure that each and every one of those 9 billion people have safe food and water. Let's continue to lead and not follow, because 9 billion people are depending on us" and 2050 will be here before we know it.

*Gregory Singleton*

# DID YOU KNOW?

CRD is on the Web!

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/about/civilrights>



The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex (including gender identity and expression), marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.)

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TAR-GET Center at 202-720-2600 (voice and TDD.)

\*To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, 1400 Independence Ave. SW, Stop 9410, Washington, DC 20250-9410, or call toll free at 866.632.9992 (English); 800.877.8339 (TDD) ;

866.377.8642 (English Federal-relay) or 800.845.6136 (Spanish Federal-relay)

\*For the Program Discrimination Complaint form and instructions, visit the NRCS CRD website.



## Civil Rights Division

### VISION:

To be an inclusive diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness availability and accountability.

### MISSION:

To be an inclusive, diverse and equitable Agency that delivers programs in a manner based on and consistent with fairness, equality, availability and accountability while ensuring that applicants and employees are treated with respect, dignity and free from discrimination.

## NRCS Civil Rights Division

Name	Position	Phone
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Nettie Moment	EEO Specialist	301-504-2164
Barbara Taylor	EEO Specialist	301-504-2185
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<b>Program Compliance Team</b>		
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Sheila Shepperd	EO Specialist	301-504-2457
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