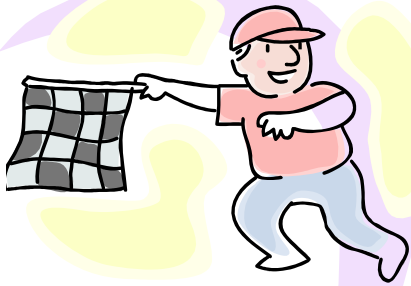


CIVIL RIGHTS REQUIREMENTS IN THE CACFP

Revised 4/2017



GOALS OF CIVIL RIGHTS

- Equal treatment for all applicants and beneficiaries under the law
- Knowledge of rights and responsibilities
- Elimination of illegal barriers that prevent or deter people from receiving benefits
- Dignity and respect for all





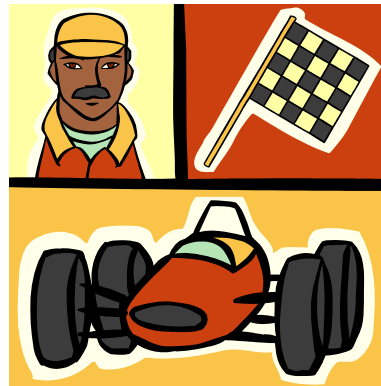
FEDERAL FINANCIAL ASSISTANCE

- Federal financial assistance is anything of value received from the Federal government and can include cash, commodities, training, excess, computers, and more.
- Accepting Federal financial assistance requires compliance with civil rights rules in all aspects of operations – not just in the program being funded!



HELPFUL REFERENCES

- **USDA Regulations at 7 CFR 15**
- **USDA Regulations at 7 CFR 16**
- **CACFP Regulations at 7 CFR 226.6**
- **FNS Instruction 113-1, including Appendix B**





WHAT IS A PROTECTED CLASS ?

Any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order. Protected classes in CACFP are race, color, national origin, age, sex, and disability.



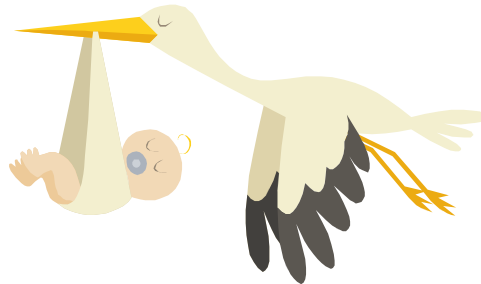
SITUATION

Someone complains that she was denied participation in the CACFP because she is a Muslim. Is this a civil rights violation since religion is not a protected class?



ASSURANCES

- In order to receive Federal funding, agencies/providers must sign assurances that they will abide by civil rights requirements in program delivery
- State agencies must conduct pre-award reviews to determine the likelihood of civil rights compliance



ASSURANCES= PROMISES

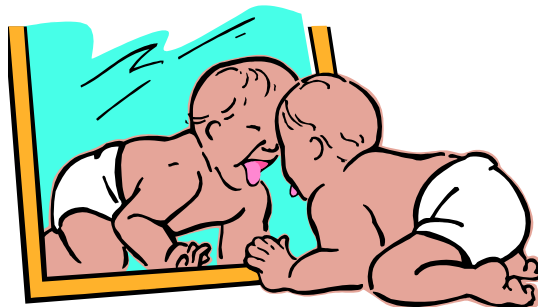


- No discrimination based on race, color, national origin, age, sex, or disability
- Program will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines
- Compile data, maintain records, submit reports
- Allow reviews & access



SITUATION

Someone who runs a day care center would like to apply for CACFP but doesn't like the idea of opening up enrollment to everyone because some existing customers distrust people not like themselves. Is this allowed?



TYPES OF DISCRIMINATION

- **Disparate treatment** – Because of protected class, someone is treated differently – may sue agency
- **Disparate Impact** - Discriminatory result on a protected class results from action or rule – appeal to Federal agency
- **Reprisal/Retaliation** - Negative treatment due to prior civil rights activity by an individual or his/her family or known associates or for cooperating with an investigation – may sue agency



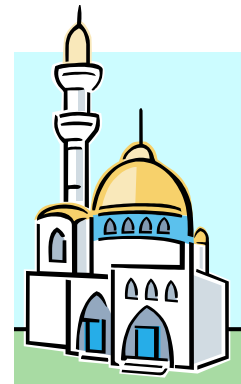
SITUATION

A sponsor decides to conduct CACP reviews of all of the day care centers only in a certain zip code. Are there legitimate business reasons for this? Could this be considered discrimination and if so, what kind? Are there other ways of achieve the same result?



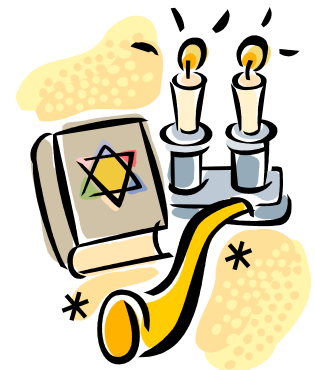
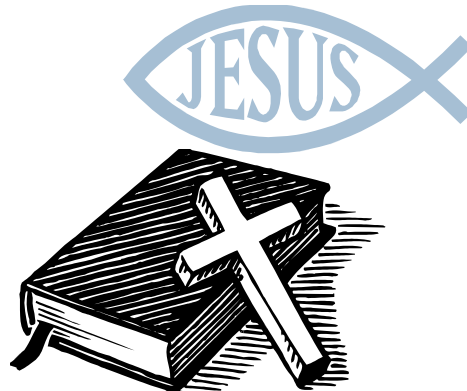
FAITH AND COMMUNITY BASED ORGANIZATIONS

USDA Regulations at 7 CFR 16 require equal opportunity for Faith Based Organizations (FBO's) and Community Based Organizations (CBO's). **Conduct outreach to FBOs and CBOs!**



FAITH AND COMMUNITY BASED ORGANIZATIONS

- Discrimination is prohibited against an organization on the basis of religion, religious belief or character in the distribution of funds
- FBOs can use space in their facilities without removing religious art or symbols



FAITH AND COMMUNITY BASED ORGANIZATIONS

Beneficiaries also protected!

- **No organization that receives direct assistance from the USDA can discriminate against a beneficiary or prospective beneficiary on the basis of religion or religious belief**
- **FBOs retain their independence and carry out their mission, as long as USDA funds or activities do not support worship, religious instruction or proselytization**



FAITH AND COMMUNITY BASED ORGANIZATIONS

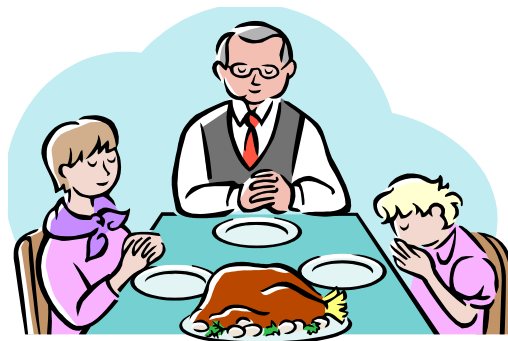
- EXCEPTION -

7 CFR 16.3 (c) provides that religious organizations that receive USDA assistance under the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 *et seq.*, the Child Nutrition Act of 1966, 42 U.S.C. 1771 *et seq.*, or USDA international school feeding programs may consider religion in their admissions practices and impose religious attendance or curricular requirements at their schools.



SITUATION

A day care center run by a church and operating the CACFP only admits children who are of the faith served by the church and requires children to say a prayer before the meal. Are there any civil rights problems here and if so, what?



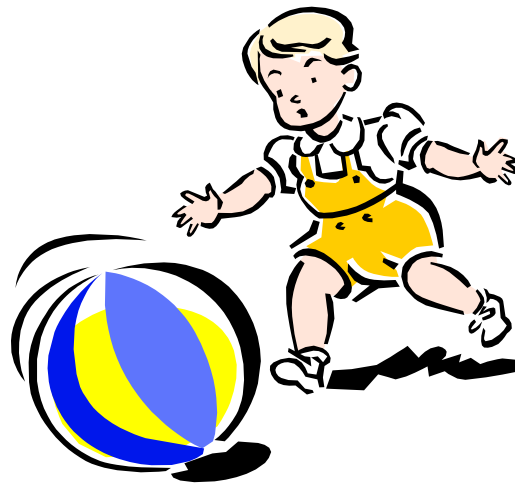
SITUATION

An atheist complains to you that she was not hired by a church run day care center because of her lack of religious beliefs. What should you do?



TRAINING REQUIREMENTS

“Frontline staff” who interact with applicants and participants and supervisors of “frontline staff” must be trained annually! This would include day care operators and their staff members.



TRAINING REQUIREMENTS

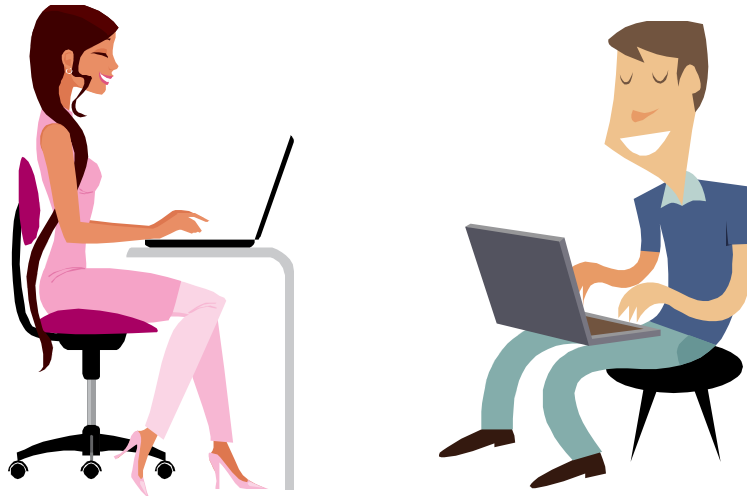
REQUIRED TRAINING TOPICS:

- Collection & 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



SITUATION

A sponsor develops a computer based training module for civil rights and wants to distribute it to day care centers to train front line staff. Is this acceptable?



DATA COLLECTION & ANALYSIS

- Collected to help determine if there are disparities between potentially eligible and participating populations
- Allow for targeting of outreach efforts
- Aggregated for analysis
- Kept confidential



DATA COLLECTION & ANALYSIS

- People self declare
- All must indicate if Hispanic or Latino or not – mixed must choose ONE
- All must indicate race – as many as applicable
- If person refuses to code, advise you will code for them: rationale is discrimination based on perception and others would perceive same as you.
- These are government wide requirements imposed by the Office of Management & Budget (OMB)



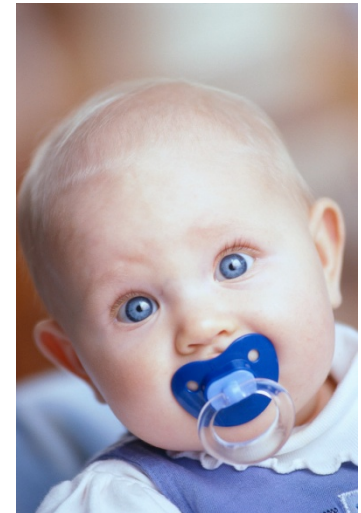
DATA COLLECTION & ANALYSIS

- See Census Quick Facts
<http://quickfacts.census.gov/qfd/> for info by county for each State
- See Census Bureau web site
www.census.gov for other data that are available
- Data are a starting point! There is a need to know communities to properly interpret and apply data!



SITUATION

The parents of a child refuse to complete the racial ethnic data section of the application. What should the day care provider do?



PUBLIC NOTIFICATION

- Outreach/communication
- People need to know about CACFP and know their rights
- Underserved populations need special attention and special efforts
- Market your program and the fact that it does not discriminate!



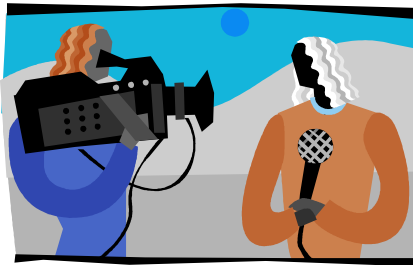
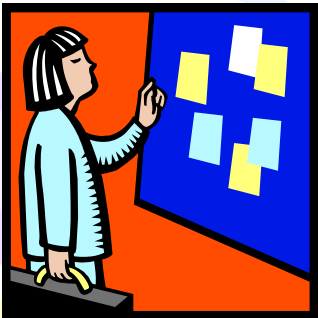
PUBLIC NOTIFICATION

- Contact community groups & advocacy groups
- Display the “And Justice for All...” poster (day care homes are exempt)
- Include the required nondiscrimination statement on all appropriate FNS and agency publications, Web sites, posters and informational materials.
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information.



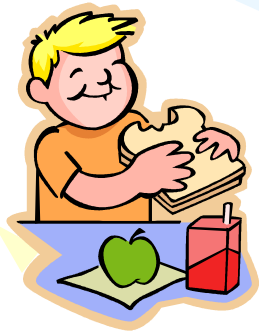
PUBLIC NOTIFICATION

- Special outreach to underserved groups
- Use special formats to reach disabled
- Use other languages to reach people with limited English proficiency
- Be creative! TV, radio, posters, flyers, supermarket bulletin boards, local clubs, libraries, schools, special events, fairs, mailings, Internet, web site links...



SITUATION

The area served by a day care center has a large ethnic community where many of the people have limited English proficiency. What are some public notification techniques that could be used to reach out to this community?



SITUATION

A day care center wants to move to a bigger space in another part of town. Are there any civil rights or public notification issues possibly connected to this?



SITUATION

Since FNS has not printed new nondiscrimination posters, may states design and print their own posters?



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) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.



NONDISCRIMINATION STATEMENT

SHORT VERSION:

“This institution is an equal opportunity provider and employer.”

- ✓ **May be used where the longer statement does not fit.**
- ✓ **Must be in font size no smaller than font size used in rest of publication**
- ✓ **Should not be used where information on rights is provided.**



NONDISCRIMINATION STATEMENT

WEB SITES

- ✓ Include the long statement or a link to it on web sites that discuss FNS funded programs. Home page at a minimum!
- ✓ Include the long or short statement on materials intended to be printed off the web site.



SITUATION

A CACFP site prints an informational brochure in another language. Since the nondiscrimination statement is very technical and the population is not well educated, it is felt there is no need to include it. It would also take up too much space. Is this correct?



COMPLAINT PROCEDURES

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) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

COMPLAINT PROCEDURES

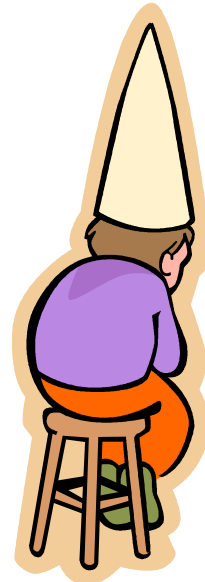
Be aware of the bases for which complaints may be filed: race, color, national origin, age, sex, and disability

- ✓ Never discourage groups or individuals from filing complaints or from voicing allegations of discrimination.
- ✓ Know where to file a complaint – USDA
- ✓ FNS Instruction 113-1 outlines complaint investigation procedures.



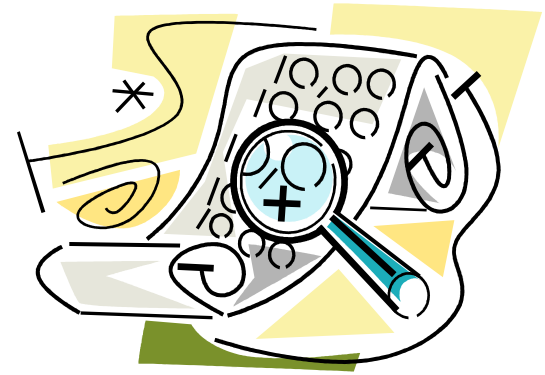
SITUATION

A parent who is a chronic complainer is now threatening to file a discrimination complaint because you put her child in the “naughty nook” for misbehaving. What should you do?



COMPLIANCE REVIEWS

- **Pre-award, post-award, and special**
- **Check for non-discrimination and insure civil rights requirements being followed**
- **Conducted by State or Federal staff or both**



RESOLUTION OF NONCOMPLIANCE

CORRECTIVE ACTIONS:

- Cease inappropriate actions
- Institute appropriate procedures

**FAILURE/REFUSAL CAN RESULT IN
LOSS OF FEDERAL ASSISTANCE
FROM ALL FEDERAL SOURCES!**

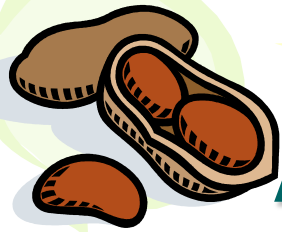


REASONABLE ACCOMMODATIONS

**INSURE ACCESS FOR PEOPLE
WITH DISABILITIES!**

- **Parking lot, entrances & exits, halls, elevators, rest rooms, sign language interpreters, Braille signage, service animals**
- **Alternative arrangements for service**

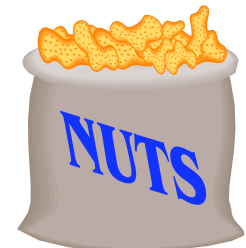
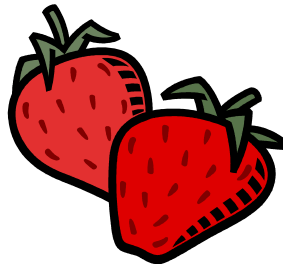




REASONABLE ACCOMMODATIONS

FOOD ACCOMMODATIONS

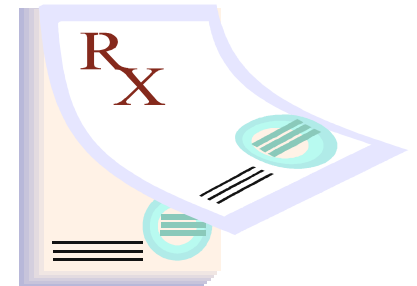
- Different from Department of Agriculture Learning Plan accommodations
- Refer to FNS Guidance document for meals for helpful info
- Accommodations will need to be tailored to meet individual situations



REASONABLE ACCOMMODATIONS

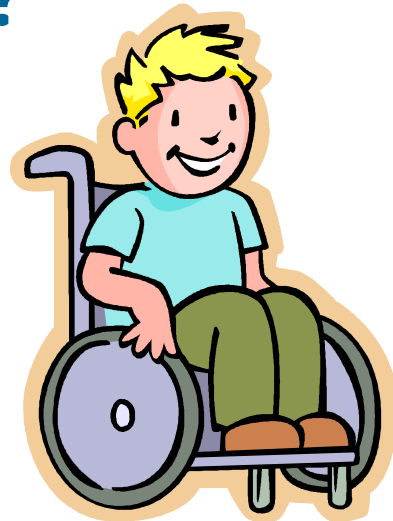
Food Accommodations – Basic Requirements

- Medical Statement to Request Special Meals and/or Accommodations – Form in online
- Type of disability or medical condition
- Type of accommodation needed
- Do not second guess doctor
- May need to work with a nutritionist



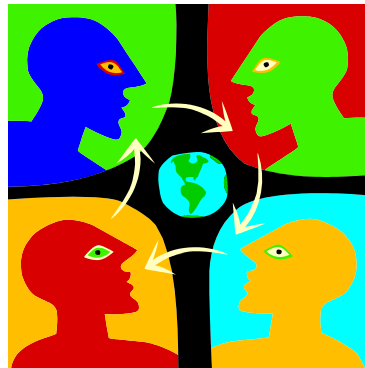
SITUATION

A parent wants to enroll a disabled child in a day care center. The day care center asks if it can refuse the child admission because it would be too hard to deal with this. What do you respond?



LANGUAGE ASSISTANCE

- People with limited English proficiency (LEP) need to be served in other languages
- Outreach in other languages is important
- Generally, service must be provided – flexibility in how it is provided



LANGUAGE ASSISTANCE

How service is provided depends on:

1. number & proportion of LEP persons served or encountered in eligible population;
2. frequency of LEP persons' contact with program;
3. nature & importance of program, activity, or service; and
4. resources available and costs.

SHORTAGE OF RESOURCES DOES NOT ELIMINATE REQUIREMENT EXCEPT IN CASES OF EXTREME HARDSHIP!!!

LANGUAGE ASSISTANCE

- Volunteers may be used, but make sure they understand interpreter ethics – particularly confidentiality!
- Children should not be used as interpreters.
- See www.lep.gov for resources & information.





SITUATION

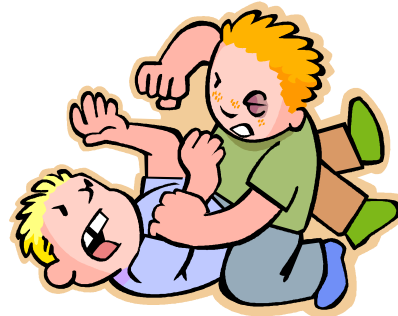
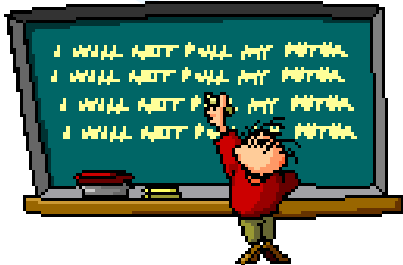


A reputable charitable organization in your community wants to provide holiday gifts and asks for a list of all of the Hispanic children being served by your organization. How should you respond?



CONFLICT RESOLUTION

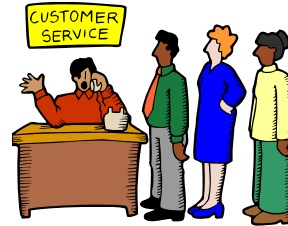
- Have a written and posted policy for dealing with unacceptable behavior and conflicts
- Try to remain calm
- Try to explain situation
- Get help, especially if threats or if violence is possible
- Use alternative dispute resolution (ADR) techniques



CUSTOMER SERVICE

“Treat others the way they want to be treated (or at least be aware of what that is).”

- ✓ **Be patient.**
- ✓ **Be polite.**
- ✓ **Avoid sarcasm.**
- ✓ **Be empathetic. Understand that people may not know the rules or understand how programs work. They may feel uncomfortable coming to ask for help.**
- ✓ **Smile when appropriate – make people feel welcome and valued.**
- ✓ **Explain policy and let them know you will get in trouble if you do anything that violates the rules.**
- ✓ **Don't be afraid to apologize.**
- ✓ **Don't feel you need to have the last word.**



QUESTIONS?

Contact:

Nevada Department of Agriculture
702-668-4585

