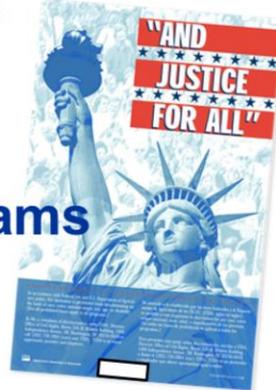


USDA Civil Rights Requirements and Child Nutrition Programs



**Nebraska Department of Education
Nutrition Services
Revised 1/2015**



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Welcome the Nutrition Services Civil Rights training for the Child Nutrition Programs.

This training will focus on civil rights for program participants that administer and participate in Child Nutrition Programs including the National School Lunch & Breakfast, Child and Adult Care Food, and Summer Food Service Programs.

USDA requires that any program receiving federal financial assistance provide training to its staff on civil rights. Specifically, USDA requires that “frontline” staff who interact with program applicants or participants and those who supervise “frontline” staff are required to receive civil rights training. Training must be completed and documented on an annual basis.

Training is required so that people involved in all levels of program administration understand civil rights related laws, procedures and directives.



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Goals of Civil Rights

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



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Civil rights refers to the **rights of “personal liberty”** guaranteed by the 13th and 14th Amendments to the U.S. Constitution and Acts of Congress and to the fair and equitable treatment of all customers and employees.

Discrimination occurs when the civil rights of an individual are interfered with because of their membership in a particular group or class.



Authority

Programs receiving USDA funds must follow civil rights regulations and policy:

- **Civil Rights Regulations are intended to assure benefits of Child Nutrition Programs are made available to all eligible people in a non-discriminatory manner.**
- **All sponsors receiving Federal \$\$ must implement Civil Rights requirements to be eligible for the program.**



Programs receiving USDA funds must follow civil rights regulation and policy to assure benefits of the Child Nutrition Programs are made available to all eligible people who participate in the programs.



Authority

Programs receiving USDA funds must follow civil rights regulations and policy:

- **Food and Nutrition Service (FNS) 113-1 regulations cover these programs:**
 - **National School Lunch, Breakfast and Special Milk Programs**
 - **Summer Food Program**
 - **Food Distribution Program**
 - **Child and Adult Care Food Program**

www.fns.usda.gov/cr/crregulation.htm



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The regulations that outline the SFA/Institutions' responsibilities regarding civil rights compliance in the National School Lunch Programs are provided in FNS 113-1.

The purpose of [Civil Rights Instruction 113-1](#) is to:

- establish and convey policy
- provide guidance and direction to the USDA Food and Nutrition Service and its recipients and customers
- ensure compliance with and enforcement of the prohibition against discrimination in all FNS nutrition programs and activities, whether federally funded in whole or not.

The next 5 slides provide the authorities for the child nutrition programs. You can read more detail about each in FNS 113-1 11/8/2005 located at:

<http://www.fns.usda.gov/cr/crregulation.htm>



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Civil Rights Legislation

Title VI of the Civil Rights Act of 1964:
prohibits discrimination based on race,
color, and national origin in programs and
activities receiving Federal financial
assistance.

The Americans with Disabilities Act of 1990:
prohibits discrimination on the basis of
disability.



Civil Rights legislation over the years impacts your civil rights responsibilities.

These are two landmark examples of such legislation.



Civil Rights Legislation

Title IX of the Education Amendments of 1972: prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance

Section 504 of the Rehabilitation Act of 1973: prohibits discrimination based on disability



Please read the slide for additional legislation



Civil Rights Legislation

Age Discrimination Act of 1975: prohibits discrimination based on age in programs or activities receiving Federal financial assistance.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA): Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs.



Please read the slide for additional legislation



Civil Rights Legislation

Civil Rights Restoration Act of 1987:
clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes to ensure nondiscrimination in all programs and activities of a recipient, whether those programs and activities are federally funded or not.



Please read the slide for additional legislation

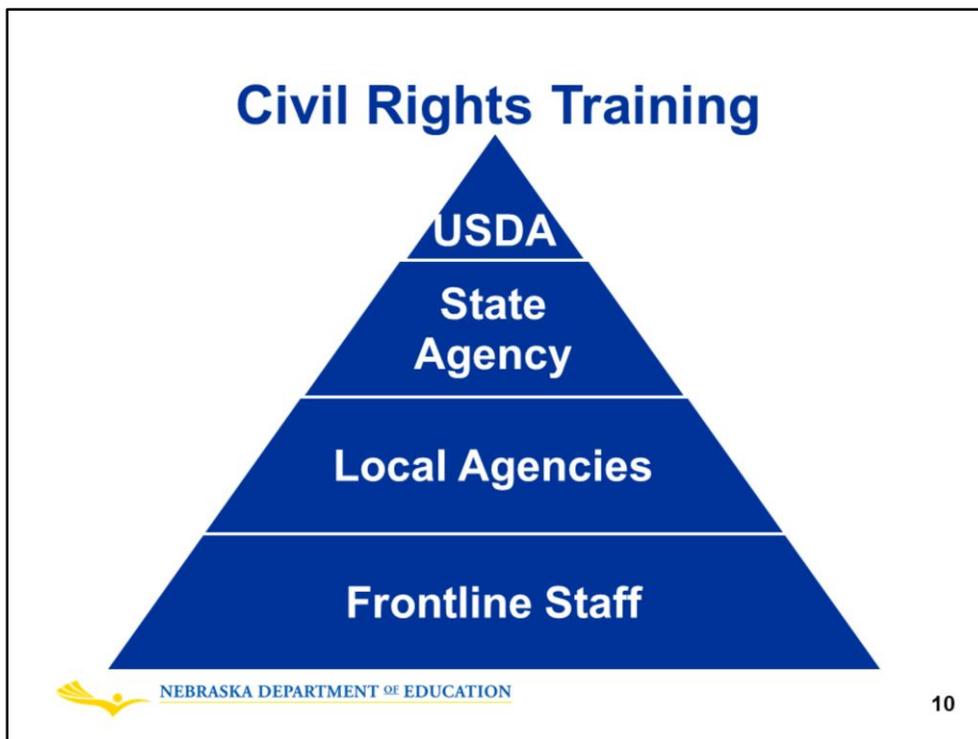


Civil Rights Legislation

USDA Departmental Regulation 4330-2: ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the USDA.

USDA Regulation 7 CFR Part 16, ensures equal opportunity for religious organizations, to compete on an equal footing with other organizations for USDA assistance.





Training is required so that people involved in all levels of administration of programs that receive Federal financial assistance understand **civil rights related laws, regulations, procedures, and directives.**

FNS Regional Office of Civil Rights and State agencies will be responsible for training State agency staffs.

State agencies are responsible for training local agencies such as SFAs and Institutions.

Local agencies are responsible for training their subrecipients, including “frontline staff.”

“Frontline staff” who interact with program applicants or participants, and those persons who supervise “frontline staff,” **must be provided civil rights training on an annual basis.**

To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the Civil Rights laws and implementing nondiscrimination regulations.

Protected Classes

- Race
- Color
- National origin
- Sex
- Age
- Disability




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What is a protected class?

A protected class refers to any person or group of people who have a **characteristic for which discrimination is prohibited** based on a law, regulation, or an executive order.

Note: There are specific laws and regulations that provide for the 6 protected classes in Food and Nutrition Service (FNS) Programs (i.e. Child Nutrition Programs). Protected classes may vary somewhat between federal programs. For example, other federal programs may include the following protected classes: sexual orientation, marital or family status, parental status and protected genetic information.

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

SFA Responsibilities for Civil Rights Training

- #1 Collection and Use of Data**
- #2 Effective Public Notification Systems**
- #3 Complaint Procedures**
- #4 Conflict Resolution**



The Civil Rights SFA responsibilities include the following specific subject matter which must include, but not be limited to the following **9 topics**:

9 Topics

- Collection and use of ethnic/racial 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
- Customer service



Civil Rights SFA Responsibilities

- #5 Compliance Review Techniques**
- #6 Resolution of Noncompliance**
- #7 Requirements for Reasonable Accommodations of Persons with Disabilities**
- #8 Requirement for Language Assistance**
- #9 Customer Service**



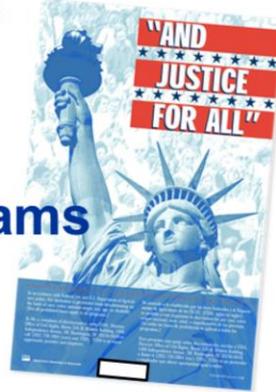
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The purpose of training is that all levels understand civil rights laws, procedures, and directives. The following slides will provide information on each of these responsibilities.



USDA Civil Rights Requirements and Child Nutrition Programs



#1 Collection and Use of Data



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FNS Headquarters and Regional Offices, State agencies, local agencies, and other subrecipients must provide for and maintain a system to collect **ethnic and racial data** in accordance with FNS policy.

These data will be used to determine

- how effectively FNS programs are reaching potential eligible persons and beneficiaries
- identify areas where additional outreach is needed
- assist in the selection of locations for compliance reviews
- complete reports as required.



Obtaining Ethnic/Racial Data

- **Voluntary self-identification or self-reporting (*preferred method*)**

Income application: Household applications that are completed each year and submitted to the SFA have a section for the household to identify their ethnic and racial data



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Income application: Household applications that are completed each year and submitted to the SFA/Institution have a section for the household to identify their ethnic and racial data (households are not required to complete this**)**



Obtaining ethnic/racial data

- If a household chooses not to provide ethnic/racial information, you may use one of the following 2 methods:

- 1) Visual identification
- 2) Personal knowledge, records or other documentation



your district possesses that identifies household ethnic/racial data.



2 Ethnic Categories

- **Hispanic or Latino**
persons of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin regardless of race.
- **Not Hispanic or Latino**



This list defines the 2 Ethnic categories. The Ethnic categories also appear as an optional question for households to answer on the free and reduced meal application.

5 Racial Categories

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White



<http://www.fns.usda.gov/cr/crregulation.htm>



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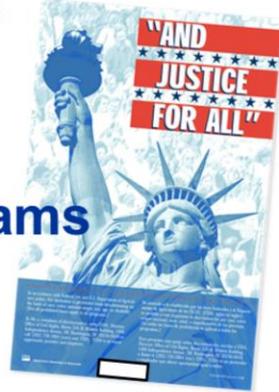
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This slide defines the 5 racial categories. There is an optional question included on the application that asks families to identify their child's racial category. If you refer to pages 18 and 19 of the Food and Nutrition 113-1 instruction on the Child Nutrition Program website you will see a definition and descriptive listing of the cultural groups that may be included under each racial category listed on this slide.

- 1) ***American Indian or Alaskan Native.*** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- 2) ***Asian.*** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 3) ***Black or African American.*** A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to ‘Black or African American.’
- 4) ***Native Hawaiian or Other Pacific Islander.*** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- 5) ***White.*** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.



USDA Civil Rights Requirements and Child Nutrition Programs



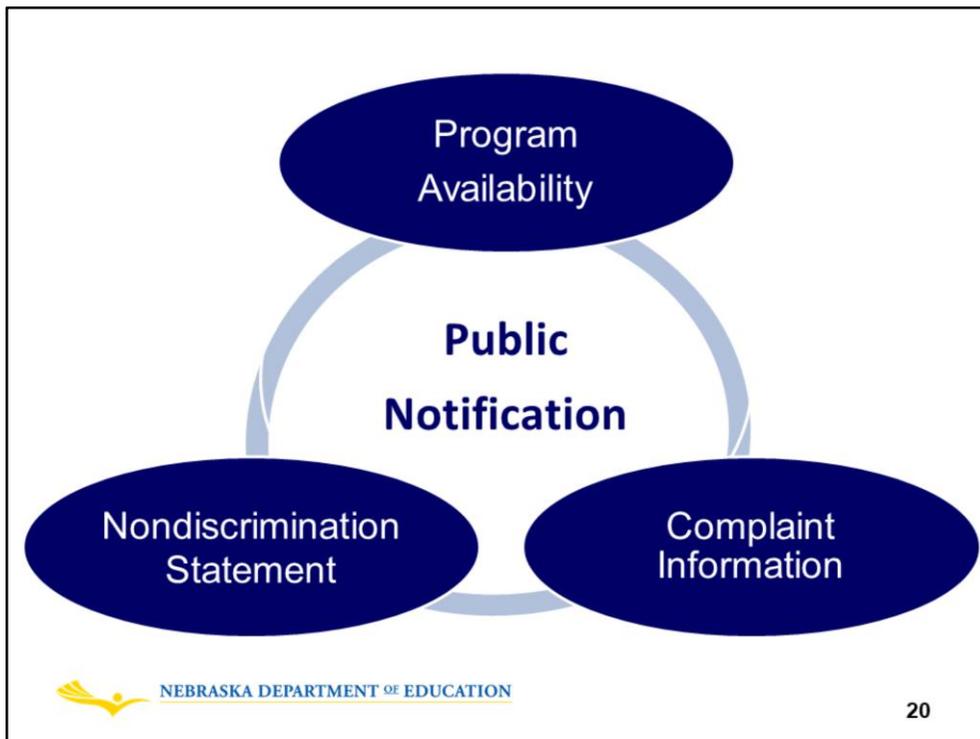
#2 Effective Public Notification Systems



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The Purpose of public notification is to inform applicants, participants, and potentially eligible persons of their **rights and responsibilities**.

Program Availability - must inform applicants, participants and potentially eligible persons of their program rights and responsibilities.

Nondiscrimination Statement

All information materials and sources, including web sites used by the State Agency, LEAs, and Institutions to inform the public about FNS programs must contain a nondiscrimination statement.

Complaint Information

Applicants & participants must be advised at the service delivery point of their right to file a complaint, how to file a complaint, and the complaint procedures

Extra Information:

Potentially Eligible Persons are individuals or households that may be eligible to receive FNS program assistance, benefits, or services, but have not applied.

Methods of Public Notification



- **Public Release**
(required)
- **Post “And Justice for All” poster**
(required)
- **Other methods of public notification**
(optional)



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The State Agency and LEA serving the public must take the following actions to inform the

- general public
- potentially eligible populations
- community leaders
- grassroots organizations
- referral sources about FNS programs and applicable Civil Rights requirements.

Public Release (required)

Inform the general public that your SFA/Institution participates in the Child Nutrition Programs and that free and reduced meals are offered.

Post “And Justice for All” Poster (required)

Includes the USDA’s nondiscrimination statement and lists the USDA contact information for filing a complaint of discrimination.

Other methods of public notification (optional):

Bulletins

Letters/Leaflets/Brochures

Internet/Computer-based Applications



Public Release

Must include information on:

- **Eligibility**
- **Benefits & Services**
(i.e. free or reduced price meals)
- **Program availability**
- **Applicant rights and responsibilities**



Nutrition Services submits the public release for all programs.



Public Release

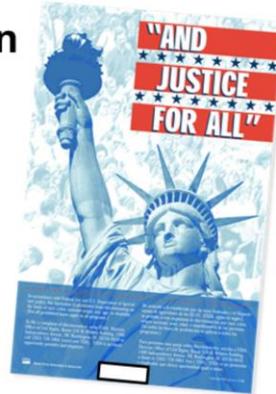
Must include information on, cont'd:

- **Procedures for filing a complaint**
- **Non-discrimination policies**
- **Any programmatic changes (i.e. changing location of a meal site)**



“And Justice For All” Poster

All programs participating in Child Nutrition Programs must display the USDA’s non-discrimination poster in a prominent area where participants and potential participants have access



This official “And Justice for All” poster must be displayed for all participants and potential participants.

The poster for nutrition programs will have AD475C printed on the bottom right corner with a revision date of December 1999. When a newer version is available the state agency will provide each SFA with enough posters for all sites and the district office. The date for a newer version is unknown.

If your district needs replacement posters, please send an email request to Nutrition Services office at the NE Department of Education and we will mail them to you.

“And Justice For All” Poster

Must be posted at every food service/preparation site

- In each cafeteria where meals are served
- Other possible locations:
 - In offices where free & reduced determinations are made
 - Entrance to facility
- Must be 11” x 17” format
- ***Posters may be obtained from NDE NS***



Please read the information on the slide.

Non-Discrimination Statement Usage Information

- **The full statement is the preferred statement on all documents any time the USDA food programs are referred to in brochures, bulletins, leaflets, and letters**
- **The full statement must be used in documents that are more than 1 page**



The Civil Rights Statement to be included with all forms of communication to the participants may be used as a full statement or can be used as a short statement. Whether the full or short statement is applicable is dependent upon the type of communication.

Either statement must be printed in the same font size as the text of the document.



Examples which require the Nondiscrimination Statement:

- F/R Meal Appls.
- Parent/Student Handbooks
- Employee Handbooks
- Newsletters
- Brochures
- Print or broadcast advertisements
- Flyers
- Websites
- Menus – *not required*



Not required, but recommended on menus



Nondiscrimination Statement Long Version

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).



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State, local, sub-recipients must post the nondiscrimination statement in their offices and be included in full on all materials produced for the public (Page 13 of FNS-113-1)



Nondiscrimination Statement Short Version

If the material or document is too small to permit the full statement (previous slide) to be included, the material **MUST, at a minimum, include:**

USDA is an equal opportunity provider and employer.



If the material is 1 page or less and there is not room for the full statement you may include USDA's short statement which is: "USDA is an equal opportunity provider and employer"

Not required to be printed on items such as cups, buttons, magnets, and pens when the size is impractical.



Nondiscrimination in Images



**When using graphics / images,
reflect diversity and inclusion.**

<http://www.ars.usda.gov/is/graphics/photos/>



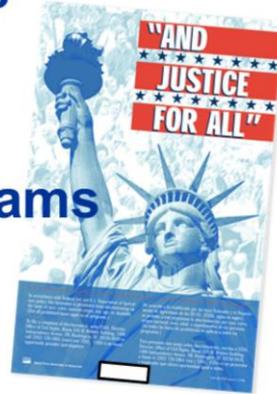
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To help convey the message of equal opportunity; images used should reflect diversity and inclusion in all program or program-related information, photos and graphics



USDA Civil Rights Requirements and Child Nutrition Programs



#3 Complaint Procedures

#4 Conflict Resolution



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All complaints alleging discrimination on the basis of race, color, national origin, age, sex, disability, either written or verbal, signed or anonymous, must be processed within the time frames established by USDA regulations and agreements.



Complaint Procedure Plan

SFAs and Institutions are required to **develop and **implement** a written procedure to handle any discrimination complaint that may be received.**



All SFAs and Institutions must develop a written Civil Rights Complaint Procedure and implement this procedure.



Civil Rights Complaints

Allege that
discrimination
has occurred in
violation of one
of the protected
classes →→→→→

Race
Color
National origin
Sex
Age
Disability



Civil rights violations are tied to the protected classes listed on this slide. The protected classes that are specific to child nutrition programs are Race, Color, National Origin, Sex, Age and Disability.

The complainant must be advised of confidentiality and the Privacy Act. **The complainant and entity are encouraged to solve this at the lowest possible level and as quickly as possible.**



**Discrimination is
...when an individual or group
of individuals are:**

- **D**elayed benefits or services
- **D**enied benefits or services
- Treated **D**ifferently than others to their disadvantage
- Given **D**isparate Treatment



A person can allege that discrimination has occurred and file a discrimination complaint because they feel that they were denied benefits, OR they received delayed benefits OR they received benefits in a disparate manner **due to being a member of one or more of the protected classes listed above.**



Where Do They Send the Complaint?

Complainants may choose to:

- Contact USDA directly or
- Contact NDE NS directly, or
- Notify the SFA of their complaint

SFAs and Institutions must forward all discrimination complaints received regarding Child Nutrition Programs to NDE NS within 5 working days



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Complainants may choose to directly contact USDA with their complaint, contact the Nebraska Department of Education (NDE) Nutrition Services (NS) with their complaint, or they may notify the SFA of their complaint. The SFA must forward all discrimination complaints they receive regarding Child Nutrition Programs to NDE NS within 5 working days.



Procedures for Filing a Complaint

1. Right To File A Complaint

Any person alleging discrimination based on race, color, national origin, sex, age, or disability has a right to file a complaint within 180 days of the date of the alleged discriminatory action.



It is a basic right for a person to file a complaint, however; there is a time limit.

It is very important to document all conversations and information that might be pertinent to a possible civil rights complaint because the person who wishes to file a complaint may report as late as 6 months after the date of the alleged occurrence.

Under special circumstances this time limit may be extended by the Office of Civil Rights (OCR).



Procedures for Filing a Complaint

2. Verbal Complaints

A complaint does not need to be written by the person alleging that discrimination has occurred.

If the complaint is verbal, the SFA needs to record the complaint for the person.

In the event a complainant makes the allegations verbally or through a telephone conversation and refuses or is not inclined to place such allegations in writing, the person to whom the allegations are made shall write up the elements of the complaint for the complainant.

Every effort should be made to have the complainant provide sufficient information to assist in resolving the complaint.

Procedures for Filing a Complaint

3. Acceptance

It is the SFAs and Institutions responsibility to accept the complaint and to be able to do so requires that you collect certain information.

The complaint is then forwarded to the appropriate officials for processing.



All civil rights complaints, written or verbal, shall be accepted and forwarded to the state agency to be forwarded to the Civil Rights Division at MPRO. It is necessary that the information provided be sufficient to determine the identity of the agency or individual towards which the complaint is directed, and to indicate the possibility of a violation.

Anonymous complaints should be handled as any other complaints.



How to Handle a Complaint

- **Use the Complaint Form**
- **Enter the Complaint on the Log**
- **Refer the complaint to the SFA's and Institution's civil rights contact person**
- **Report the complaint to NDE within 5 working days.**



How to Handle a Complaint

- Either the complainant or the sponsor may complete the form.
- Enter the complaint on the Civil Rights complaint Log
- Refer the complaint immediately to the SFAs and Institutions primary contact person
- Report the complaint to NDE NS within 5 working days – the sooner you contact us the better.



Conflict Resolution

The USDA recommends using an Alternative Dispute Resolution (ADR) program

ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation.

www.fas.usda.gov/Admin/civilrights/conflictres.asp



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<http://www.fns.usda.gov/cr/adr.htm>

Alternative Dispute Resolution

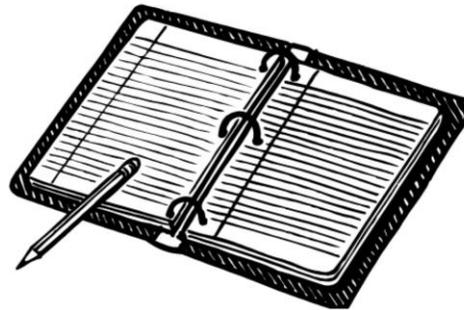
Background

Alternative Dispute Resolution (ADR) involves a variety of techniques and approaches to achieve consensual resolution of disputes, in a manner which avoids the cost, delay, and unpredictability of more traditional adversarial and adjudicative processes. These techniques may include mediation, facilitation, neutral evaluation, conciliation, fact finding, use of an ombudsman, settlement conferences, mini-trials, and peer review.



Civil Rights Complaint Log

Log must be dated and kept for **3 years + current year**, even if no complaints have been received



All discrimination complaints must be documented in the Civil Rights Complaint Log

The Civil Rights Complaint Log must be dated and kept for 3 years + current year, even if no complaints have been received that year.

Civil Rights (CR) Binder

- **Separate sections for**
 - 1) **SFA's and Institution's CR complaint procedure,**
 - 2) **CR complaint Log,**
 - 3) **Copies of CR complaint forms**
- **An information sheet that identifies the Civil Rights coordinator for the SFA**



Civil Rights information needs to be available at every site.



**USDA Civil Rights
Requirements
and
Child Nutrition Programs**



#5 Compliance Review
#6 Resolution of Noncompliance

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The compliance review is a component of the FNS management evaluation review process that is conducted on an ongoing basis for all FNS programs.

The Civil Right review must examine the activities of the State agency, local agency, or other subrecipients **to determine that FNS programs are being administered in compliance with Civil Rights requirements.**

FNS Regions are responsible for the review of State agencies.

State agencies are responsible for the review of local agencies.

Local agencies are responsible for the review of their subrecipients.

The office performing compliance reviews must advise the reviewed entity, in writing, of the review findings and recommendations.

Information for SFAs and Institutions

Nutrition Services will ask:

- **Have you ever received any written or verbal complaints alleging discrimination?**
- **If YES, have these complaints been reported to the State Agency?**
- **What is your policy to handle a complaint of discrimination?**



Please read the information on the slide.



Information for SFAs and Institutions



No separation based by race, color, sex, disability, age or national origin in:

- **Meal time**
- **Seating arrangements**
- **Serving lines**
- **Eating areas**



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Must inform all parties involved: from superintendent to cafeteria monitor.



Information for SFAs and Institutions

- **Foreign language translations are available**
- **USDA poster displayed in prominent place**
- **Correct nondiscrimination statement on program materials**
- **Incorrectly denied F/R applications are not disproportionately composed of minority applications**
- **Disabled students are provided program benefits**



The meal application and income eligibility forms are available in several languages, so if you need a specific language, contact our office.

And Justice for poster is displayed in a prominent place

The nondiscrimination statement is on program materials

Incorrectly denied applications are not disproportionately from a minority group

Disabled students are provided program benefits



Resolution of Noncompliance

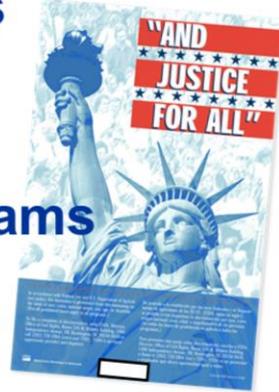
- **Civil Rights findings during the Review require a Corrective Action Plan that ensures compliance with the FNS 113-1 Instruction**
- **An acceptable corrective action plan must be submitted**
- **Failure to respond or correct the finding may result in suspension or termination of financial assistance**



As an example, the consultant will ask for written assurance the Nondiscrimination Statement will be included in the school handbook for the next school year.



USDA Civil Rights Requirements and Child Nutrition Programs



#7 Reasonable Accommodations of Persons with Disabilities

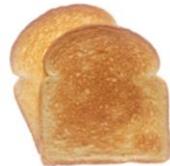


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Accommodating Children With Special Dietary Needs



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Over the past 10 years there has been a steady rise in the number of requests to accommodate children with special dietary needs in the U.S. Department of Agriculture's (USDA's) Child Nutrition Programs.

Child Nutrition Programs play an important role in serving children with special food and/or nutrition needs in the United States.



Federal Regulations

- The Rehabilitation Act – 1973 (Section 504) and The Americans with Disabilities Act – 1990
- Individuals with Disabilities Education Act (IDEA)
- USDA Regulations
 - 7 CFR 15b
 - 7 CFR 210 and 220




Federal legislative acts require that a free and appropriate public education be provided to children with disabilities. In addition, these acts also direct SFAs and Institutions to make reasonable dietary accommodations for these same children. These acts include:

The Rehabilitation Act of 1973 – specifically, Section 504...which prohibits discrimination on the basis of a disability in programs and activities that receive federal financial assistance – and includes USDA’s Child Nutrition Programs since funding is received for meals/milk/snacks and commodities. This law typically applies to children that do NOT require special education.

The Individuals with Disabilities Education Act (IDEA)...funds state-specific programs for children in special education. Schools may be able to get financial assistance for teacher aides that would assist a student with feeding, or other special needs. This law is most applicable to students that require special education.

These laws work together to ensure that children with disabilities are educated alongside their peers who are not disabled to the maximum extent possible. Regulations stemming from these laws must be followed throughout the facility, including the cafeteria.

Students With Disabilities

- Schools must make food substitutions or modifications in school meals for children whose disabilities restrict their diets.



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Based on these federal legislations, schools and child care settings participating in the USDA's Child Nutrition Programs are **required** to provide special diet modifications and food substitutions to children whose **disabilities** restrict their diet.



Definition of a Disability

Anyone who has a physical or mental impairment, which substantially limits one or more of the major life activities



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Under Section 504 of the Rehabilitation Act of 1973, a person with a disability is defined as:

... anyone who has a physical or mental impairment, which **substantially** limits one or more of the major life activities, has a record of such impairment, or is regarded as having such an impairment.

Many disabilities are included in the definition of physical or mental impairment. To qualify for special accommodations, a child's disability must **substantially limit** one or more **major life activities**:

The term "physical or mental impairment" includes many disease and condition which may be:

- Orthopedic, visual, speech, and hearing impairments
- Cerebral palsy
- Epilepsy
- Muscular dystrophy
- Multiple sclerosis
- Cancer
- Heart disease
- Metabolic diseases (diabetes and phenylketonuria (PKU))
- Food Anaphylaxis (severe food allergy)
- Mental retardation
- Emotional illness
- Drug addiction and alcoholism
- Specific learning disabilities
- HIV
- TB (tuberculosis)

The Americans with Disabilities Act 1990...which created new rights and extended the existing civil rights for Americans with disabilities that were originally addressed in the Rehabilitation Act of 1973.

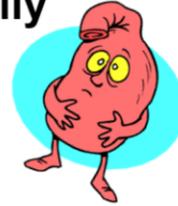
Major life activities covered by this definition include:

1. Caring for one's self
2. Eating
3. Performing manual tasks
4. Walking
5. Seeing
6. Hearing
7. Speaking
8. Breathing
9. Learning
10. Working



ADA Amendment Act of 2008

- Expanded to include “Major Bodily Functions”:
 - Immune system
 - Normal cell growth
 - Digestive, bowel, and bladder functions
 - Neurological, brain, respiratory functions
 - Circulatory, cardiovascular, endocrine, and reproductive functions



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Recently the American with Disabilities Act of 2008 expanded the definition of disability, broadening it to cover additional individuals. The broadened list of “major life activities” to include Major Bodily Functions; and now includes the items listed on the slide.



ADA Amendment Act of 2008

- **What does this mean to schools?**
 - **More children identified with food-related disability**
 - **More required meal accommodations**



Because of the expansion to include “Major Bodily Functions,” School Food Authorities and CACFP Institutions/facilities will be seeing more children identified with a food related disability.

The USDA is currently updating the guidance “Accommodating Children with Special Dietary Needs in the School Nutrition Programs, Guidance for School Food Service Staff” to reflect this new definition of disabilities.

Individualized Education Program (IEP)

- **An IEP outlines the child’s program of Special Education and Related/Support Services**
 - School meals maybe considered a related/support service
- **An IEP may include:**
 - A written statement that addresses a child’s nutritional needs OR
 - A health care plan developed by the school nurse which identifies the child’s special dietary needs.



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A Child Nutrition food service may receive a Diet Order for a child who participates in **special education**.

This request may be included in the student’s **Individualized Education Program or IEP**... which is a written statement for a child with a disability who needs special education and/or “related services.” Meal services are often considered related or support services.

A Diet Order may also be included in a child’s **individualized health care plan**.

The food service must accommodate the special dietary needs of a child when the child’s IEP includes a nutrition component or when special dietary needs are identified in the child’s individualized health care plan.

The Individuals with Disabilities Education Act (IDEA), through the Part B Program, provides federal funds to assist states and school districts in making a “free appropriate public education” available to eligible children with specified disabilities residing within the state. Students that need special education and “related services” are eligible for services under IDEA, at no cost to parents. In some situations, nutrition services may be specified as special education or a related service. Services which may be funded through IDEA could include:

1. the purchase of special foods, supplements, or feeding equipment;
2. the consultation services of a registered dietitian or nutrition professional; and,
3. the assistance of a special education teacher, occupational therapist or other health professional in feeding the child or in the development of feeding skills.

**Medical Statement for a
Child *With* a Disability**

The statement must include:

- The child's disability;
- How the disability restricts the
- Major life activity affected;
- Foods to be omitted;
- Foods to be substituted; and
- Licensed physician's signature



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Once it is established that a child has a disability and will require a special diet, a written Medical Statement or Diet Order must be submitted by the household in order for the school food service to proceed and accommodate the child's special dietary needs. In most cases, a short note from a physician on a prescription pad **will not** contain all the information that is required on the Special Diet Statement.

The Special Diet Statement must identify or include:

- **The child's disability;**
- **How the disability restricts the diet;**
- **Major life activity affected;**
- **Foods to be omitted;**
- **Foods to be substituted; and**
- **Licensed physician's signature.**

If the Medical Statement only specifies the medical disability and not the required food substitutions, the SFA/Institution must contact the parents/guardians to obtain more detailed information from the doctor concerning the substitutions or modifications to be made.

It is important that the family understands that implementation of the special diet may be delayed without a thoroughly completed Medical Statement or Diet Order on file.

NDE's Preferred Medical Statement

- **To obtain a copy of the medical statement go to:**
- **<http://www.education.ne.gov/ns/forms/nslp/forms/SpecialDiet.html>**



[NEBRASKA DEPARTMENT OF EDUCATION](http://www.education.ne.gov)



Additional Requirements for a Child With a Disability

- Food service is not required to provide a meal that is not normally offered (i.e., breakfast) – unless required in a student's IEP
- Costs can not be charged to par 
- Include meeting special dietary needs in contracts with Vendors and Food Service Management Companies

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3. Child Nutrition operations **are not required to provide a meal that is not normally offered**, for example, **breakfast**, unless the student's Individualized Education Program or IEP, that is written for a student in special education, states that the meal is required.

4. Child Nutrition Programs **cannot charge participants an additional fee or require parents to provide food** for their meals or snacks just because they have a disability and their disability requires food substitutions that are costly.

5. If meals are purchased from an outside vendor or Food Service Management Company; be sure that the vendor/management company knows and understands that they must accommodate the special dietary needs of all children whose disabilities affect their diets. It is important that the contract between the Child Nutrition Program and the vendor/management company contain this provision or language.

Accommodating Children With a Disability

If supported by a Medical Statement signed by a Licensed Physician, special diets are reimbursable:

- Even if the meal does not meet USDA meal pattern requirements
- When both the school and household agree to supply different food components of the meal
 - and this plan is documented on the Medical Statement and approved by the signing physician

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When accommodating a child with a disability who requests a special diet, keep in mind that if there is a Medical Statement on file signed by a Licensed Physician, special diets are reimbursable when:

- Both the school and the household agree to supply different components of the meal and this plan is documented on the Medical Statement.
- The planned meal does not meet USDA meal pattern requirements.

These meals, even though not the norm, still qualify for reimbursement in the Child Nutrition Programs.

A Child *Without* a Disability

- May request a special diet or accommodation.
- Schools are encouraged, but are **NOT REQUIRED** to make food substitutions
- Food allergies or intolerances
 - **NOT** generally considered a disability **UNLESS** the food causes a life-threatening reaction.
- In many cases, food allergies can be managed using “Offer versus Serve” or by providing additional food selections.



A child ***without* a disability**, but who has special dietary needs requiring food substitutions or modifications, **may request that the Child Nutrition Program’s food service meet their special nutritional needs.**

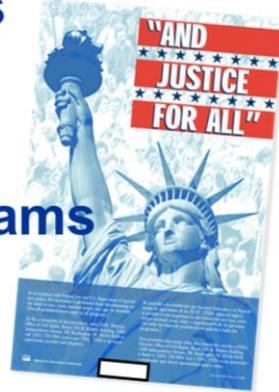
Schools are encouraged, but are not required, to make food substitutions or menu modifications for a child who does not have a disability.

Generally, food allergies or intolerances are **not considered a disability as defined under either Section 504 of the Rehabilitation Act or Part B of IDEA**, if they do not have the potential or result in a life-threatening reaction.

The school food service **may make food substitutions, at their discretion, for these children.** Such determinations are usually made on a case-by-case basis by the Child Nutrition Program.

In many cases, **allergies to certain foods can be managed** by having the child **utilize the “Offer versus Serve” provision in schools or serving family style meals in CACFP.** In other words, the **child can simply decline the offending food(s)** or the food service can provide additional food choices.

USDA Civil Rights Requirements and Child Nutrition Programs



#8 Language Assistance



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Limited English Proficiency (LEP)

- **Individuals who do not speak English as their primary language and have limited ability to read, speak, write, or understand English.**
- **Recipients of Federal financial assistance have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP.**



Title VI of the Civil Rights Act of 1964 prohibits recipients of Federal financial assistance from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin in any of their activities. Section 601 of Title VI, 42 U.S.C. § 2000d, provides “No person in the United States shall, on the bases of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”



Limited English Proficiency (LEP)

- **Children should not be used as interpreters.**
- **Volunteers may be used, but make sure they understand interpreter ethics – particularly confidentiality!**



Example: Spanish teacher could assist a household in completing an application but would need to be trained on the importance of keeping all information received from the household confidential



LEP & School Districts

Must make materials available in the appropriate language

Bayramınız
Kutlu Olsun

ขอบคุณ

شكراً

www.fns.usda.gov/cnd/frp/frp.process.htm

USDA website has 33 other language translations in addition to English.

What languages are spoken in your school?

LEP & School Districts

A shortage of resources does not eliminate the translation requirement

Suggestions:

- Share resources to save money**
- Use interpreter from another area**
- Train bilingual staff to be interpreters**
- Language line phone services**
- Grassroots organizations**

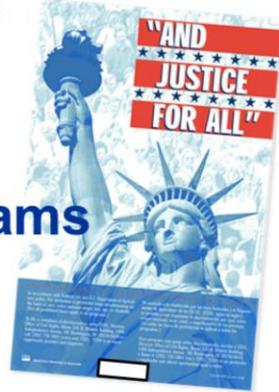


Language line phone services may be available for a subscription fee through your local telephone service provider

Contact grassroots organizations to discuss translation or assistance from within the community



USDA Civil Rights Requirements and Child Nutrition Programs



#9 Customer Service



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Customer Service

All participants must be allowed equal opportunities to participate in Child Nutrition programs regardless of race, color, national origin, sex, age, or disability.



Customer Service

All participants must be treated in the same manner:

- ✓ **seating arrangements**
- ✓ **serving lines**
- ✓ **services and facilities**
- ✓ **assignment of eating periods**
- ✓ **methods of selection for application approval processes**



Ask yourself each time you interact with participants...

- **How would I want to be addressed?**
- **Am I treating this person in the same manner I treat others?**
- **Have I informed this person exactly what information I need to make a determination on the application?**



Ask yourself each time you interact with participants...

- **Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions?**
- **Have I provided this person with needed information to make necessary decisions?**



Summary

Civil Rights “Must Do List”

- ☑ Prominently display the *And Justice for All* poster
- ☑ Non-discrimination statement must be on all printed materials available to the public which mention USDA and/or Child Nutrition Program meals and snacks
- ☑ Must offer meals to all students in the school



Summary

Civil Rights “Must Do List”

- ☑ Offer any Child Nutrition Program in a Non-Discriminatory manner
- ☑ Train staff annually on Civil Rights
- ☑ Develop & fully implement your Civil Rights Complaint Procedure
- ☑ Make available to all staff Civil Rights Complaint forms, Log and Complaint Procedure



It is the responsibility of the sponsor to document that all food service employees receive civil rights training each year. Documentation includes a training agenda including the date of the training and a sign in sheet or list of the attendees.

Training is important because sponsors need to be prepared to handle a civil rights complaint if one occurs.

In addition to training, the district must have a policy in place that describes how the situation will be handled and who the contact person is for help with handling or documenting a complaint.

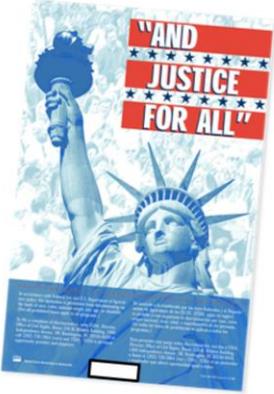
Keeping a civil rights file either in hardcopy or electronically with complaint forms and a log sheet is essential for



compliance.

Contact Us:

Nutrition Services
402-471-2488
or
800-731-2233
(outside Lincoln)



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