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A Guide to Civil Rights Requirements in School Food Service

United States civil rights originated upon ratification of the 13th Amendment to the Constitution. One year after, The Civil Rights Act of 1866 became law. Civil rights guarantees were expanded in 1868 with ratification of the 14th Amendment to the U.S. Constitution. In the many years since, Congress has broadened civil rights. Examples include The Civil Rights Act of 1964, The Americans with Disabilities Act, and The Age Discrimination Act of 1975. The goals of civil rights are, but not limited to:

- 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

The basic premise of civil rights is protection from discrimination, which is the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect or actions, or lack of actions based on their protected classes. A protected class is any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order. The six protected classes that apply to the Child Nutrition Programs are race, color, national origin, sex, age, and disability.

All sponsors of programs receiving Federal monies must implement the civil rights requirements to be in compliance and eligible to operate their respective federal program(s). Child Nutrition Programs include: National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP), Child and Adult Care Food Program (CACFP). Since Child Nutrition Program sponsors receive Federal monies, this means that agencies, organizations, and institutions that operate one or more of these programs must ensure that no participant experiences discrimination. The following requirements help assure your school food service complies with civil rights regulations.

Data Collection and Maintenance

Data collection is an important part of compliance with USDA's civil rights requirements. There are three types of data that must be collected and maintained for the current year plus three prior: (1) ethnic and racial data for all participants, collected yearly; (2) ethnic and racial data for the estimated number of potential eligible beneficiaries by ethnic/racial categories for the area served by your institution, collected yearly; and (3) all records used to operate NSLP/SBP maintained for three years plus the current year. This data helps determine how effectively Child Nutrition Programs are reaching potentially eligible children, and where outreach may be needed.

Participant data

When schools collect this information as part of their enrollment procedure, ethnicity and race must be collected in two separate statements. The two-part question collects ethnicity first, then racial designations.

Ethnicity

This question is to collect data on whether the child is Hispanic, Latino, or Spanish origin. The definition of Hispanic or Latino is "A person of Cuban, Mexican, Mexican American Chicano, Puerto Rican, South or Central American or other Spanish Culture or origin, regardless of race." The term Spanish origin can be used in addition to Hispanic or Latino.

Using Ethnic and Racial Data: Comparing the ethnic/racial data collected regarding potential participants to data collected for actual NSLP/SBP participants can: help identify underserved populations, and allow targeted education and outreach to underserved populations.

Race

This question is to collect information on one or more racial categories that identify a child or adult in care. There are five categories of race: American Indian or Alaskan Native, Asian (Asian Indian, Chinese, Japanese, etc.), Black or African American Native Hawaiian or Other Pacific Islander, and White.

Ethnic and racial data for schools is collected by each school and reported in the school census information web site that can be accessed by the school registrar.

Potential participant data.

The second data collection requirement is the estimated number of potential eligible beneficiaries by ethnic and racial categories for the area served by your school. To help you meet this requirement, Child Nutrition Programs provides this information every year during the application renewal process.

Maintaining All NSLP/SBP Records

The third data collection requirement is that all records used to operate the NSLP/SBP must be maintained for three years plus the current year, and that safeguards are in place to ensure the data is kept confidential.

Public Notification

All programs must include a public notification system to inform applicants, participants, and potentially eligible persons about the program. The public notification system provides information about:

- eligibility
- benefits and services (free and reduced-price meals and snacks)
- program availability
- steps necessary for participation
- applicant rights and responsibilities
- non-discrimination policies
- procedures for filing a complaint

News Media Release

One of the requirements of public notification includes sending a public news media release that informs the general public of the availability of meals/snacks at local SFAs. This notice must be sent out annually. Any news releases or public service announcements must include the USDA non-discrimination statement. The Vt. Agency of Education sends out sends a public notification annually that covers all SFAs.

“And Justice for All” Poster

Public notification includes the “And Justice for All” poster placed in an area viewable to participants and potential participants. Areas of display include cafeterias, entrances to facilities, main offices, or classrooms if meals are served there. Do not place the poster in the kitchen hidden away from participants and potential participants. The “And

Justice for All” poster contains the non-discrimination statement as well as civil rights complaint procedures.

During the administrative review, the State Agency will make sure that the “And Justice for All” poster is displayed in any area where participants and potential participants have access to view the poster. The poster may be obtained from VT Agency of Education by contacting Cheryl Rogers at cheryl.rogers@vermont.gov, or by printing from the [USDA website](#), which contains additional language versions.

Outreach and Education

Outreach and education is an important part of the public notification system that each SFA and/or school can provide. Newsletters to parents or articles in the local paper explaining the program are two examples. Another possibility is working with the person responsible for the school or SFA web site to publicize the program and how it benefits the participants and overall community. Making the income application form available on line is recommended, as is explaining how the reimbursement works and the source of funding. At the very least, menu information should be publicized. Some methods of outreach and education include:

- Prominently displaying the “And Justice for All Poster” at any site where NSLP, SBP, and/or ASP is operated
- Providing information in languages relevant to your community
- Providing program information, including web-based information, in alternative formats for persons with disabilities

Remember to include the non-discrimination statement as part of any public notifications (next section). In addition, keep in mind that equal opportunity conveyance should be illustrated in program photos or graphics. This would involve depiction in the varieties of race, color, national origin, sex, age, or disability status.

Use of the Non-discrimination Statement

New long and short non-discrimination statements were released in 2015 and must be used according to USDA guidelines. These are the official statements that SFAs/school districts/schools must include in all printed communication when referring to the Child Nutrition Programs. For materials that are longer than one page front to back, use the long 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, audiotope, 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.

If the material is less than one page front to back, sponsors may use the following short non-discrimination statement. It must appear in print size no smaller than the text:

This institution is an equal opportunity provider.

On the other hand, the full non-discrimination statement does not have font-size requirements (within reason: make it legible). And since the full non-discrimination statement is the public notification for the complaint procedure, the full statement should be used on particularly sensitive one-page items such as the eligibility

notification letters. Additional details regarding the USDA non-discrimination statements:

- Do not alter either the long or short non-discrimination statement in any way. For example, sponsors should not change the short non-discrimination statement to say “The Bigtown High School is an equal opportunity provider and employer.” It must say “USDA is an equal opportunity provider and employer.”
- Include the non-discrimination statement on all school nutrition correspondence to households; in brochures, parent handbooks, print or broadcast ads, and flyers; and on enrollment forms. Anything that is advertised to the community, public, or parents, must also contain the non-discrimination statement. During a State agency review, the State will check all outreach materials to make sure the long or short non-discrimination statement has been included.
- Include the non-discrimination statement on child nutrition programs web sites and web sites that refer to any of the child nutrition programs. The statement does not have to be included on every page of the program information web site. However, at a minimum, the long non-discrimination statement, or a link to it, must be included on the home page of the program information.
- A non-discrimination statement is not required to be imprinted on items such as cups, buttons, magnets, and pens that identify the program, when the size or configuration makes it impractical.

NOTE: The first paragraph of the new long non-discrimination statement shows an expanded list of protected classes compared to previous versions of the statement for use by Child Nutrition Programs. This list covers all classes protected by all USDA administered programs. The statement in parentheses (Not all prohibited bases will apply to all programs and/or employment activities.) means that different protected classes are covered by different USDA programs. For Child Nutrition programs race, color, national origin, sex, age, and disability continue to be the protected classes. However, sponsors of any of the child nutrition programs are required to write the new non-discrimination statement as is with the extended protected classes.

Complaint Procedures

Civil rights complaints are allegations of discrimination based upon one or more of the protected classes (race, color, national origin, sex, age, or disability). Any person receiving meal benefits through any of the child nutrition programs who alleges

discrimination based on any of the protected classes has a right to file a complaint with USDA within 180 days of the date of the alleged discriminatory action.

It is important that each institution follow the appropriate procedure for handling complaints of discrimination based on any of the protected bases and that all employees know how to handle a complaint of discrimination. A written procedure should be kept in a specific location that employees can easily access. Keep these points in mind:

- The complaint procedure is written out in the USDA non-discrimination statement. This is how complaints should be processed whenever possible.
- Complainants may choose to directly contact the USDA with their complaint, or they may notify the institution or sponsor of their complaint. If a written or verbal complaint is issued to your school food service program, the sponsor must forward the complaint to the USDA.
- All civil rights complaints, written or verbal, shall be accepted. 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.
- In the event a complainant makes the allegations verbally or through a telephone conversation and refuses to 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. Components of verbal complaints should include this information:
 - Contact information for the complainant
 - The specific location and name of the entity delivering the service or benefit.
 - The nature of the incident or action that led the complainant to feel that discrimination was a factor.
 - The basis on which the complainant feels discrimination exists within any of the protected classes.
 - The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.
 - The date(s) during which the alleged discriminatory actions occurred or, if continuing, the duration of such actions.

Compliance Reviews

During the state administrative review of the school food service program, civil rights compliance is determined through the following items:

- Whether potentially eligible persons and households have an equal opportunity to participate in the program,

- Whether case records are coded by race or ethnic origin,
- Whether offices are displaying the USDA non-discrimination poster in a conspicuous location,
- Whether the non-discrimination statement is included on all printed materials such as applications, pamphlets, forms, or any other program materials distributed to the public and on Web sites; and whether graphic materials reflect inclusiveness based on race, color, national origin, age, sex, and disability,
- Whether program information is being made available to potentially eligible persons, program applicants, and participants,
- Whether actual applicant and participant racial and ethnic data are being collected and maintained on file for 3 years,
- Whether Civil Rights complaints are being handled in accordance with procedures outlined in this assurance agreement or other regulations, policies, and guidance, and
- Whether the school food service has conducted civil rights training for its staff.

All documentation must be on file and readily available during a review by the State Agency.

Non-Compliance Resolution

A finding of noncompliance may be the result of a routine management evaluation review, a special review, or an investigation. Noncompliance is a factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a school food service program or its vendor(s). The following are general examples of discrimination:

- Denying an individual or household the opportunity to apply for FNS program benefits or services on the basis of race, color, national origin, age, sex, or disability. The Food Stamp Program (FSP) also prohibits discrimination on the basis of religion and political beliefs.
- Providing FNS program services or benefits in a disparate manner on the basis of race, color, national origin, age, sex, or disability, unless the difference is necessary to comply with nondiscrimination requirements, such as disability accommodations. The FSP also prohibits discrimination on the basis of religion and political beliefs.
- Selecting members for planning and advisory bodies in such a way as to exclude persons from membership on the basis of race, color, national origin,

- age, sex, or disability. The FSP also prohibit discrimination on the basis of religion and political beliefs.
- Selecting FNS program sites or facilities in a manner that denies an individual access to FNS program benefits, assistance, or services on the basis of race, color, national origin, age, sex, or disability. The FSP and also prohibit discrimination on the basis of religion and political beliefs.

Once noncompliance is determined, steps must be taken immediately to obtain voluntary compliance. The effective date of the noncompliance finding is the date of the written notice of noncompliance by the State agency. The written notice will indicate the action required to correct the problem.

Reasonable Accommodation of Disabilities

All organizations receiving Federal financial assistance must take “reasonable steps” to ensure meaningful access to their programs for participants who have disabilities, and/or need accommodations for life-threatening allergies or other conditions.

Individuals with Physical Disabilities

Accommodations for children or adults with physical disabilities include accessibility to the cafeteria as well as access to the same meal choices as other students and the ability to be seated with other students. Examples include entrances and exits wide enough for a wheelchair, tables that accommodate a wheelchair and accommodations so the child can access the serving line. Other examples include program aides that can help with feeding and adaptive tableware.

Food Substitutions/Modifications

When an individual has a life-threatening food allergy or medical condition requiring a special diet, this is considered a disability. The school administrative office has student disability information stored in an Individual Education Plan (IEP) or 504 Plan, which may detail what school meal accommodations are needed. Or a signed medical statement can be provided that contains instructions for food substitutions. Examples include pureeing food for a student who is unable to swallow solid foods; or, nut-free foods if eating them would cause life-threatening anaphylactic shock.

Limited English Proficiency

When there are language barriers due to limited proficiency in English or because alternative means of communication are needed, a reasonable effort must be made to provide materials in formats that the target audiences can understand. This includes making information about program eligibility, benefits, services, and procedures for filing complaints in the appropriate translation to non-English speaking persons, and/or using an interpreter if needed. Providing alternative means of communication such as Braille, large print, or audiotape recorded available to the public, participants, and potential participants are other examples. USDA provides publications and program materials in several languages.

Customer Service

Good customer service will help reduce or eliminate complaints of discrimination. If you provide free leftovers, make sure all students have the offer; for example, not just honor roll students. This way you're treating all participants in the same manner. Effective communication is essential to good customer service. Listen well if somebody complains about food preferences, even if you don't consider it a disability or intolerance. Consider providing accommodations for food preferences.

Conflict Resolution

Remain calm, ask questions and listen well. Effective communication is also essential to conflict resolution.

Mandatory Training

Annual training related to civil rights is required so that people involved in all levels of school food service operations understand all the requirements. Program administrators, program managers, frontline employees and volunteers who interact with the children or adults in care, including monitors and those who supervise frontline staff, must participate in civil rights training annually. New staff should receive civil rights training before participating in program activities. Required topics to cover in training provide an understanding of what discrimination is and why civil rights are important, the protected bases in NSLP/SBP, familiarity with the non-discrimination statement, where to display the And Justice for All poster, what a civil rights complaint is, the procedure for dealing with a civil rights complaint, collecting and recording ethnic and racial data and the reasons for doing so, conflict resolution, and customer service. Minimum topics include:

- Data Collection and Use
- Public Notification

- Complaint Procedures
- Compliance Reviews
- Resolution of Noncompliance
- Reasonable accommodation of disabilities
- Requirements for language assistance
- Conflict Resolution
- Customer Service

Assurances

Assurances are contractual agreements in which a state agency, local agency, or the sub-recipient (SFA) legally agrees to administer FNS programs in accordance with all laws, regulations, instructions, policies, and guidance related to non-discrimination. An assurance must be included in all agreements between State agencies and local school food authorities. The on-line agreement submitted by an SFA to participate in school meals programs contains an assurance agreement. Any retail or vendor agreements entered into must include an assurance of non-discrimination. The USDA non-discrimination assurance statement for NSLP, SBP and the Special Milk Program is as follows:

"The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement."

"By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of non-discrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the non-discrimination laws. If there are any violations of this assurance, the

Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.”

For CACFP and SFSP the assurance statement is:

“The Program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the Department of Agriculture (7 CFR Part 15), DOJ (28 CFR Parts 42 and 50) and FNS directives or regulations issued pursuant to that Act and the regulations, to the effect that, no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program applicant received Federal financial assistance from USDA; and hereby gives assurance that it will immediately take any measures necessary to fulfill this agreement.”

“This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.”

“By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The

person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.”

For additional resources see: [USDA Food and Nutrition Instruction 113-1](#) “Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.”