

Civil Rights in Child Nutrition Programs

Vermont Agency of Education
Child Nutrition Programs

Topics Covered

- Legislation
- Assurances
- Public Notification
- Data Collection
- Language Assistance
- Modifications to Accommodate Disabilities
- Complaint Procedure
- Civil Rights Reviews and Resolution
- Training
- Customer Service
- Conflict Resolution

Objectives

- By the end of this presentation, you will be able to:
 - Implement correct Civil Rights procedures.
 - Provide reasonable modifications to accommodate disabilities.
 - Establish a Civil Rights Complaint Procedure.
 - Have completed annual Civil Rights training.

Definition of Discrimination

- Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by action or lack of actions based on a protected class.
- For the Food and Nutrition Service (FNS) programs administered by Vermont Agency of Education (AOE) there are 6 federally-protected bases and;
- 4 Vermont AOE-specific protected bases.

Federally-Protected Bases

1. Race
2. Color
3. National Origin
4. Sex
5. Age
6. Disability

Vermont Agency of Education Protected Bases

- Includes all federal bases and:
 1. Religion
 2. Sexual Orientation
 3. Gender Identity
 4. Marital/Civil Union Status

Eligibility Requirements vs. Discrimination

- These programs have been established to serve a certain group of people.
- It is not considered discrimination to exclude those who do not meet the eligibility requirements for these programs.
- For example, there are various age limits in the programs, and it is not age discrimination to exclude or not serve those that do not meet the age requirements.

Legislation

Civil Rights Legislation ¹

- Title VI of the Civil Rights Act of 1964
 - Race, color, and national origin
- Civil Rights Restoration Act of 1987
 - Clarifies the scope of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973 & Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008
 - Disability
- Title IX of the Education Amendments of 1972
 - Sex
- Age Discrimination Act of 1975
 - Age

Civil Rights Legislation ²

- Executive Order 13166
 - Improving Access to Services for Persons with Limited English Proficiency
- USDA LEP Policy Guidance (79 Fed. Reg. No. 229. Friday, November 28, 2014)
- USDA Departmental Regulation 4330-002
 - Prohibits discrimination in programs and activities receiving federal financial assistance
- USDA Departmental Regulation 4330-003
 - Equal Opportunity Public Notification Policy
- FNS Instruction 113-1 & FNS Instruction 113-1 Appendix B (School Meals, SFSP, & CACFP) & FNS Instruction 113-1 Appendix C (USDA Foods)
- 7 CFR Part 16 “Equal Opportunity for Religious Organizations”
 - Allows religiously affiliated organizations to compete equally for USDA funds
- Meal Modification Memo CACFP and SFSP (SFSP 10-2017 & CACFP 14-2017)

Equal Opportunity for Religious Organizations

- 7 CFR Part 16:
 - Ensures a level playing field for the participation of faith-based organizations and other community organizations in USDA programs.

Implementing Equal Opportunity for Religious Organizations

- This can be accomplished by:
 - Prohibiting discrimination for or against an organization on the basis of religion, religious belief, or religious character in the administration and distribution of federal funds.
 - Allowing a religious organization that participates in USDA programs to retain its independence and continue to carry out its mission, provided that direct USDA funds do not support any “explicitly religious activities such as worship, religious instruction, or proselytization.”
 - Clarifying that faith-based organizations can use space in their facilities to provide USDA-funded service without removing religious art, icons, scriptures, or other religious symbols.
 - Ensuring that no organization that receives direct federal funds can discriminate against a program beneficiary, or prospective beneficiary, on the basis of religion or religious belief.

Civil Rights Legislation ³

- Richard B. Russell National School Lunch Act of 1946
- Child Nutrition Act of 1966
- 28 CFR Part 35- (Covers nondiscrimination on the basis of disability in State/local government services (public entities))
- 28 CFR Part 42 (Covers nondiscrimination in Federally assisted programs)
- 7 CFR Parts 15, 15a, 15b, and 15c
 - USDA implementing regulation for federally assisted programs
- 7 CFR Parts 210, 215, & 220 (NSLP, SMP, SBP)
- 7 CFR Part 225 (SFSP)
- 7 CFR Part 226 (CACFP)
- 7 CFR Part 245 (NSLP, SMP, SBP) [Eligibility]
- 7 CFR Part 250 (Food Distribution)

Assurances

Civil Rights Assurances

- 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 all nondiscrimination laws, regulations, instructions, policies, and guidelines.
 - The Program Agreement contain the assurance language.
- A civil rights assurance must be incorporated into all agreements between federal and state agencies, state agencies and program operators, and between program operators and sub-recipients (if applicable).
- FNS Instruction 113-1 Appendix B(D)(1) for NSLP, SBP, and SMP and D(2) for CACFP and SFSP and Appendix C(F) for USDA Foods contains required assurances language.

Assurances When Contracting With Vendors

- Retailer and vendor agreements must include an assurance of nondiscrimination.
 - For example, many School Food Authorities (SFAs) contract with Food Service Management Companies (FSMC). The SFA is responsible for ensuring the FSMC is in compliance with civil rights requirements.

Purpose of Assurances

- Assurances help to
 - Clarify expectations
 - Eliminate discrimination against applicants, participants, and beneficiaries
 - Prevent future discrimination
 - Address effects of past discrimination
- Assurances are binding on the program applicant and its successors, transferees, and assignees, as long as they receive assistance or retain possession of any assistance from USDA.

Public Notification

Public Notification System

- All FNS programs must have a public notification system.
- The purpose of this system is to inform applicants, participants, and potentially-eligible persons of:
 - Program availability
 - Program rights and responsibilities
 - The nondiscrimination policy
 - The procedure for filing a complaint
- Make program information available to the public upon request.

Public Notification Requirements

State agencies, Program operators, and subrecipients must:

- Notify persons with disabilities about the availability of reasonable modifications and auxiliary aids and services
- Notify persons with limited English proficiency (LEP) of their right to free language assistance services.

Elements of Public Notification

- Prominently display the “And Justice For All” non-discrimination poster in all required areas.
- Inform potentially eligible persons, applicants, participants, and grassroots organizations of programs or changes in programs
- Convey the message of equal opportunity in all photos and graphics used to provide program information.
- Provide information in alternative formats for persons with disabilities.
- Provide information in the appropriate language(s) for Limited English Proficiency (LEP) persons.
- Include the required nondiscrimination statement on all appropriate materials, publications, websites, posters, and informational materials.

“And Justice For All” Non-Discrimination Poster

- It must be the official poster. Local reproduction is not authorized.
- Display the poster prominently in all required locations.
 - Cafeteria
 - If students do not visit the cafeteria at some point in their day, it must be displayed where they eat.
 - Central office and Food Service office
 - Field trips where meals served
- The poster is not required in day care homes.
- This poster is a trademark of a federal program and the most highly recognizable form of public notification of the non-discrimination requirements and procedure for filing a complaint of discrimination.

Ordering “And Justice For All” Non-Discrimination Posters

- This is a picture of the required poster.
- To get posters, please contact Ailynne Adams at
 - (802)-828-1626
 - ailynne.adams@vermont.gov



AJFA Poster in Other Languages

- And Justice for All Posters (Guidance and Translations)
 - <https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations>
 - “And Justice for All” Posters in Other Languages
- The translated language may be printed and displayed next to the standard poster.
- Please be sure to use the “AD-475A” version.

AJFA Posters in Schools in School Year 2021-2022

- Per question 50 of [SP 16-2021, CACFP 14-2021 Previously Issued Questions and Answers Relating to Operation of the Child Nutrition Programs: Updated for School Year 2021-2022](#), AJFA posters are not required in every classroom.
- They should be displayed in prominent locations throughout the school, such as a bulletin board in the main building entrance or the school office.

AJFA Posters for Non-Congregate Mobile Meals in School Year 2021-2022

Per question 49 of [SP 16-2021, CACFP 14-2021 Previously Issued Questions and Answers Relating to Operation of the Child Nutrition Programs: Updated for School Year 2021-2022](#), meals served from stationary vans or buses should display the AJFA poster. Vehicles making door-to-door deliveries at households do not have to display the poster.

Nondiscrimination Statement

- At a minimum, the complete nondiscrimination statement must be on vital materials related to benefit level, necessary for participation:
- For the School Meals Programs:
 - Free and Reduced-Price Meal Application Materials
 - Free and Reduced-Price Meal Application
 - Meal Application Cover Letter
 - Notification of Direct Certification Pre-Approval
 - Notification of Approval or Denial of Meal Benefits
 - Reminder Regarding Expiration of Previous Year Eligibility Benefits

Nondiscrimination Statement Continued

- The complete nondiscrimination statement must be on:
 - Verification Process Materials
 - Verification Notice
 - Verification Results Letter
 - *The Free and Reduced-Price Meal Application Materials and the Verification Materials with the correct nondiscrimination statement are provided annually on the [Vermont Agency of Education Child Nutrition Programs Free and Reduced Meals webpage](#).
 - Program Webpage
- For the Child and Adult Care Food Program (CACFP):
 - Income Eligibility Form
 - Notice to Households
 - Enrollment Form
 - Program Webpage
- For the Summer Food Service Program (SFSP):
 - Media Release
 - Program Webpage
 - For camp sites, the Meal Application & Meal Application Cover Letter

Program Webpage

- Web pages must contain the non-discrimination statement or the direct hyperlink. It cannot link to a closed PDF or Word document. Do not hyperlink to the USDA or FNS pages, but may direct hyperlink to VTAOE CNP statement.
 - Include statement on school and SU-level pages
- There is a slightly different version of the non-discrimination statement for the webpage, with the link to the complaint form hyperlinked as “How to File a Complaint”
- The one exception would be if the meals program is not referenced in absolutely any way, but that is unlikely and not recommended, as websites are a great way to promote the program and increase participation.
- Social media pages do not need to contain the non-discrimination statement if they can be accessed from the program webpage.

Complete 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, 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: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, 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.

Complete Nondiscrimination Statement in Spanish

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el [Formulario de Denuncia de Discriminación del Programa del USDA](#), (AD-3027) que está disponible en línea en: https://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf, y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: 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; o
- (3) correo electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.

Nondiscrimination Statement in Other Languages

- The Non-Discrimination Statement is available in a number of languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>

Short Version of Nondiscrimination Statement

- English:
 - This institution is an equal opportunity provider.
- Spanish:
 - Esta institución es un proveedor que ofrece igualdad de oportunidades.

Using the Short Nondiscrimination Statement

- Can be used on documents for public distribution, such as brochures or flyers.
- If short statement is used, it must be the current version.
- It must be no smaller than the smallest font used elsewhere in the document.
- It is not required on calendar menus, unless they contain “program information”. Vermont is requiring it be included on the calendar menu because “program information” is a broad term.

Data Collection

Racial and Ethnic Data Collection

- The purpose is to determine how effectively FNS programs are reaching potentially eligible persons and to determine if additional outreach is necessary.
- Applicants shall be assured that the information is only for statistical purposes and has no effect on eligibility.
- USDA Foods is exempt from this data collection requirement per FNS Instruction 113-1 Appendix C

Recent Racial and Ethnic Data Policy Change

On May 17th, 2021, USDA released [CACFP 11-2021, SFSP 07-2021 Collection of Race and Ethnicity Data by Visual Observation and Identification in the Child and Adult Care Food Program and Summer Food Service Program – Policy Recission](#)

Racial and Ethnic Data is no longer to be collected by visual observation.

Racial and Ethnic Data Collection Process

- For schools, data is collected by the registrar at the time of student enrollment. Households may also report this information on the back of the Free and Reduced-Price Meal Application.
- In the Summer Food Service Program (SFSP), SFA sponsors may use Racial and Ethnic data obtained during the school year. Non-profit sponsors may use the information for their local SFA(s). Camp sites may use the information on the back of the Free and Reduced-Price Meal Application.
- In the Child and Care Food Program (CACFP), this information is collected on the enrollment form that child care centers and day care homes have households fill out each year and the intake form at adult day centers.
- In all programs, children must not be asked to identify their race and ethnicity.

Racial and Ethnic Data in the Organization Application

- County-level Racial and Ethnic Data is reported by organizations in the Organization Application section of the program Application Packet.
- Site-level Racial and Ethnic Data for the organization is reported in the Site Applications of the program Application Packet.
- Actual data provided by the SFAs/sponsors is compared to county-wide data to assess efficacy of outreach.

Race and Ethnicity Categories

- Ethnicity
 - Hispanic or Latino
 - Not Hispanic or Latino
- Race (may select one or more of the following)
 - American Indian or Alaskan Native
 - Asian
 - Black or African American
 - Native Hawaiian or Other Pacific Islander
 - White

Population Data Sources

- U.S. Census Data
 - <https://www.census.gov/programs-surveys/decennial-census/decade/2020/2020-census-main.html>
 - Conducted once every 10 years
- American Community Survey
 - <http://www.census.gov/acs/>
 - Conducted annually

Language Assistance

Bilingual Requirements and Program Access

- Limited English Proficiency (LEP)
 - Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English because of their national origin.
- Recipients of federal funds have a responsibility to take reasonable steps to ensure meaningful access to programs for LEP individuals.
- Each SFA has an English Learner (EL) contact.

What is Meaningful Access?

- Meaningful access is accomplished by providing reasonable, timely, appropriate, competent, qualified, accurate, and effective language services to individuals with LEP when accessing programs and services.

Factors to Consider in Addressing LEP

- The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient.
- Frequency with which LEP individuals come in contact with the program.
- Nature and importance of the program, activity, or service provided by the program.
- Resources available to the recipient and costs.

Translation Resources

- Free and Reduced-Price Meal Applications are available in a number of languages at:
 - <https://www.fns.usda.gov/school-meals/translated-applications>
- And Justice for All Poster language is available in a number of languages at:
 - <https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations>
- Non-Discrimination Statement is available in a number of languages at:
 - <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>
- Other program materials may need translation.
- Foreign language teachers, community organizations, and volunteers may be used.
- Make sure they understand the confidentiality requirements.
- Interpreter hotlines are another option.
- Children should not be used to translate program requirements.

Language Assistance Resources

- Language Link, Telelanguage Inc., and Worldwide Interpreters Inc. provide translation and interpretation services
- Migration Policy Institute's National Center on Immigrant Integration Policy
 - <http://www.migrationpolicy.org/>
- Department of Justice: LEP.gov
 - <http://www.lep.gov/maps/>

Vermont-Specific Resources

- Vermont Refugee Resettlement Program (USCRI)
 - <http://refugees.org/field-office/vermont/>
- Vermont 2-1-1, United Way run service database
 - <http://www.vermont211.org/>

Modifications to Accommodate Disabilities

Disability Discrimination Legislation

- The following Civil Rights laws protect persons with disabilities who are potential applicants or participants in FNS programs:
 - Section 504 and 508 of the Rehabilitation Act of 1973 and USDA implementing regulation, 7 CFR Part 15b
 - Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A
 - Prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by state and local governments.
 - ADA Amendments Act of 2008

ADA Amendments Act of 2008

- This act expanded and clarified the definition of a disability.
- It did not change the expectation to provide a Reasonable Modification.
- The disabled person does not have the burden of “proving” the disability exists.
- It made very clear that the emphasis must be on providing the reasonable modification.

Definition of Disability

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

Expanded Definition of Disability

- Revises “Substantially Limits”
 - Need not prevent, or severely/significantly restrict a major life activity.
 - Based on an individualized assessment.
 - Determination is regardless of the effects of any mitigating measures. Mitigating measures include medications or assistive devices that an individual uses to reduce the effects of an impairment.
 - May include an impairment that is episodic or in remission if it would substantially limit a major life activity when active.

Major Life Activity

- Major life activity includes functions such as:
 - Caring for one's self
 - Performing manual tasks
 - Walking
 - Seeing
 - Hearing
 - Speaking
 - Breathing
 - Learning
 - Working
 - Reading
 - Eating

Major Life Activity Continued

- As result of the ADA Amendments Act of 2008 also includes functions of:
 - The immune system
 - Normal cell growth
 - Digestive
 - Bowel
 - Bladder
 - Reproductive functions
 - Neurological
 - Brain
 - Respiratory
 - Circulatory
 - Cardiovascular
 - Endocrine

Coverage of All Operations

Even one dollar of federal money brings the entire scope of the operations within the jurisdiction of Section 504, even when the requested modification is not related to the part of the operations that receives federal money.

Types of Disability Discrimination

- Discrimination because of the disability
 - Denying benefits or opportunities to participate
 - Segregating individuals with disabilities
 - Aiding, perpetuating or contracting with others that discriminate
- Failure to provide a reasonable modification
- Ineffective communication
- Inaccessible facilities

Ensuring Accessibility

- There is an obligation to ensure members of the public are provided accommodations in order to access program information, Free and Reduced-Price Meal Applications, and assistance (i.e. Braille, large print, and audio tape).
- Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.

Ensuring Accessibility ²

- It is important that websites and online application systems are accessible and usable by persons with visual impairments and other disabilities.
- Programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
- At times, different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services.

Guidance on Meal Accommodations

- [Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs](#)
- [Accommodating Children with Disabilities in the School Meal Programs Manual](#)
- [Policy Memorandum on Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program](#)

Reasonable Modifications

- A change or alteration in policies, practices, and procedures to accommodate a disability.
- Modifications are provided on a case-by-case basis.
- SFAs/sponsors have a duty to work with the requested modification. This means simply saying “no” is never appropriate.
- It is not about determining whether or not the child or program recipient has a disability or whether or not the process is being abused.

Reasonable Modifications ²

- The modification requested should be related to the disability or limitations caused by the disability.
- The modification requested does not have to be the modification provided, however some kind of accommodation must be provided.
- Exception: Modifications that would fundamentally alter the nature of the program are not required.
- Providing appropriate modifications is the primary objective.

Fundamental Alterations

- Modifications are not required that would fundamentally alter the nature of the program.
- If the modification requested would cause undue financial burden on the program that would make continued operation of the program unfeasible, the modification need not be provided.
- Please consult with VT AOE CNP before denying a modification under the fundamental alteration exception.

Reasonable Modifications: Key Considerations

- Consider costs/resources and age of the child or program recipient.
- Stereotypes regarding certain conditions or individuals can never determine decisions. Decisions must be based on facts.
- Meal accommodations do not need to mirror the meal or meal item substituted.
- “Lifestyle” choices (e.g. vegetarianism and veganism) are not considered disabilities and do not need to be accommodated, unless related to an underlying disability.

Food Allergies

- Many food allergies fall under the definition of disability under the expanded definition in the ADA Amendments Act of 2008 (ADAAA).
- Applies to much more than just “life threatening” allergic reactions
- “Digestive” and “Respiratory” functions are specifically listed in the ADAAA
- According to the CDC and the FASTER Act of 2021: In the United States, the following nine food groups account for 90% of serious allergic reactions:
 - Milk
 - Eggs
 - Fish
 - Crustacean shellfish
 - Wheat
 - Soy
 - Peanuts
 - Tree Nuts
 - Sesame

Food Allergies: Key Considerations

- Universal exclusions of specific foods or food groups is not an FNS policy, but could be appropriate depending on the circumstances, and within the discretion of the recipients.
- Program operators should consider their ability to consistently maintain an allergen-free facility.

Milk

- Lactose-free fluid milk is always an allowable milk choice.
- Nutritionally equivalent milk alternatives can be served without a medical statement in the School Meals Programs, CACFP, and sponsors following the School Meals Meal Pattern in SFSP.

Fluid Milk Substitute Nutrient Requirements	
Nutrient	Per cup (8 fl. oz.)
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

Access to the Program

- Ensure food service areas are accessible.
- Provide auxiliary aids and services, if needed.
 - Examples include:
 - Food service aides
 - Adaptive feeding equipment
 - Meal tracking assistance
 - Other effective methods

Integrated Environment

- Integration clause in Section 504 means that disabled individuals should be accommodated in the least restrictive and most integrated setting possible.
- In the food allergy context, this most often comes into play where children with food allergies are ostracized in some way during mealtime.
 - Allergy-free tables, such as peanut-free tables, are acceptable, as long as they are not also “punishment” tables.
- Programs must always balance safety vs. stigma. The severity of the allergy and age and ability of the child or program recipient are the primary considerations.

Reimbursement while waiting for a Medical Statement

- Medical statement may be requested, but is not required for substitutions within the meal pattern requirements.
- SFA/sponsor should begin providing a reasonable modification and request the family provide the medical statement to support it.
- Document the initial interaction with the household and continue to follow up with the household until they submit documentation.
- SFAs/sponsors may receive reimbursement for meals served during this time.

Medical Statement Requirements

- The medical statement must come from a professional licensed by the State to write prescriptions.
- If a statement is unclear, seek clarification, but this should not unnecessarily delay the modification; that could be characterized as harassment/denial.
- Statement must provide sufficient information about the impairment (diagnosis not required and should not be requested), how it restricts diet, and how to accommodate the condition.
- Cannot request medical records or charts.

Licensed Medical Professionals in Vermont

Licensed by Office of Professional Regulation:

- Dental
- Naturopathy
- Nursing under Advance Practice Nursing so includes Nurse Practitioners
- Optometrists
- Osteopaths
- Veterinarians
- Pharmacy

Medical Physicians under Vermont Department of Health Board of Medical Practice:

- Physicians
- Podiatrists
- Physicians Assistants

Assessing the Medical Statement

- Medical Statement must have 3 parts:
 - Food to be avoided
 - Brief explanation of how exposure to the food affects the child or program recipient
 - Recommended substitute(s) (does not have to be that particular brand)
- [Vermont Medical Statement Form](#) Template
- *It is not about whether or not they have a disability, but what can be done to modify the program.

Vermont Medical Statement Form Template

Special Dietary Medical Statement
Vermont Agency of Education Child Nutrition Programs

Date: _____
Child Name: _____
Parent/Guardian Name: _____
Contact Information: _____

Does the child's IEP or 504 Plan contain the information required as outlined below?
 Yes No If No, please continue to fill out the form. If Yes, stop here.

Meal Modifications Made Outside the Meal Pattern
(Accommodation that alters the USDA meal pattern)

Foods to be Avoided/Omitted:

Brief explanation of how exposure to this food affects the child:

Recommended Substitute to this Food:

Modified Texture Needed:
Special Utensils Needed:
Tube Feeding Required:
Tracking Assistance:
Other Accommodations needed:

Signature of Licensed Medical Professional Printed Name of Licensed Medical Professional

For additional information, please refer to Pages 14 & 15 of USDA-FNS Accommodating Children with Disabilities in the School Meals Programs: Guidance for School Food Service Professionals, July 25, 2017

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IEP or 504 Plan

- If the child's Individualized Education Program (IEP) or 504 Plan contain the information required in the medical statement, an additional medical statement is not required.

Duration of the Medical Statement

- SFAs do not have to obtain updated medical statements on a regular basis.
- SFAs will continue to receive reimbursement as long as the medical statement is on file.
- SFAs are responsible for ensuring medical statements reflect the current needs of children or program recipients.

Process for Implementation and Compliance

- Develop procedures for households to request reasonable modifications.
- Train school and food service staff on the procedures and legal requirements.
- The 504 Coordinator is responsible for ensuring compliance. Contact them for assistance.
- The coordinator is often part of a team that is assembled to implement modification guidelines and decisions.

Process for Requesting Modification

- Must have a procedure in place to ensure households know how to request a modification and understand their right to file a grievance should a requested modification not be granted.
- Provide notice in appropriate languages and formats.

For CACFP and SFSP

- Program operators that employ 15 or more individuals must designate at least one person to coordinate compliance with disability requirements, often referred to as a 504 Coordinator.
- Program operators that employ 15 or more individuals must establish grievance procedures.

Process for Filing a Grievance

- The notice provided to the household must include their rights to:
 - File a grievance
 - Receive prompt and equitable resolution of said grievance
 - Request and participate in an impartial hearing to resolve their grievances
 - Be represented by counsel at the hearing
 - Examine the record; and
 - Receive notice of the final decision and a procedure for review, i.e., right to appeal the hearing's decision.
- SFAs may use the IEP/504 grievance process and appeal process if it meets all the legal requirements.

Complaint Procedure

Complaints of Discrimination

- Never discourage individuals or groups from filing complaints or voicing allegations of discrimination.
- Complaints regarding civil rights must be submitted to the USDA (not to the local level or state agency, although they must track complaints).
 - The nondiscrimination statement provides instructions.
- Complaints may be written or verbal.
- Complaints may be anonymous.

Reporting Complaints of Discrimination

- All civil rights complaints shall be accepted and forwarded to the USDA Office of the Assistant Secretary for Civil Rights (OASCR).
- The complainant must file within 180 days of the alleged act of discrimination.
- USDA will investigate Civil Rights complaints.

USDA Discrimination Complaint Form

- English version:
 - http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf
- Spanish Version:
 - http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf

Complaint Form Snapshot

 OMB Control Number 0508-0002

UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)
Office of the Assistant Secretary for Civil Rights
Program Discrimination Complaint Form

First Name: _____ Middle Initial: _____ Last Name: _____

Mailing Address: _____

City: _____ State: _____ Zip code: _____

E-mail address (if you have one): _____

Telephone Number starting with area code: _____

Alternate Telephone Number starting with area code: _____

Best Time of the Day to Reach You _____

Best Way to Reach You, (check one): Mail Phone E-mail Other:

Do you have a representative (lawyer or other advocate) for this complaint? Yes No

If yes, please provide the following information about your representative:

First Name: _____ Last Name: _____

Address: _____ City: _____ State: _____ Zip Code: _____

Telephone: _____ E-mail: _____

1. Who do you believe discriminated against you? Use additional pages, if necessary.

Name(s) of person(s) involved in the alleged discrimination (if known):

Please name the program you applied for (if known/if applicable): _____

Reporting Complaints Related to the Vermont Agency of Education Protected Bases

- Please contact:

Emily Simmons, General Counsel

emily.simmons@vermont.gov

(802)-828-1518

Vermont Agency of Education Nondiscrimination Policy

The Agency of Education does not discriminate on the basis of race, color, national origin, creed, marital status, sex, disability, age, gender identity, or sexual orientation in its programs and activities.

The following person has been designated to handle requires regarding the nondiscrimination policies:

Emily Simmons, General Counsel

(802)-828-1518

emily.simmons@vermont.gov

For further information on notice of nondiscrimination, visit US Department Education, Office of Civil Rights for the address and phone number of the office that serves your area, or call (800)-421-3481.

SFA/Sponsor Complaint Procedure

- SFAs/Sponsors must have a written procedure for receiving and processing complaints alleging discrimination in the federal meal programs.
- Use [SFA or Sponsor Civil Rights Complaint Procedure Template](#)
- The SFA/sponsor must keep a Civil Rights Complaint Log.
- Maintaining confidentiality is crucial.
- Notify Child Nutrition Programs at VT AOE CNP.

Documenting Complaints

Obtain as much information from complainant as possible:

- Name and contact information of complainant
- Description of incident including date, time, location, and persons present
- Relevant Protected Base(s)

Additional information to include in log:

- Name of organization and individuals alleged to have engaged in discrimination
- Date of referral to USDA OASCR
- The findings of any investigation conducted
- Description of the final disposition of the complaint including any corrective action planned or taken

Reprisal and the Complaint Procedure

- There is language about reprisal in the nondiscrimination statement.
- This is why it is required to keep a separate complaint log and not put the information into case files/IT systems for which all employees have access.
- Restricted access may limit the potential for real/perceived retaliation or reprisal issues.
- While all employees should be confident in the complaint process and how to advise individuals of the policy and procedure, they should not all have access to complaint information.

Reprisal in Department of Justice Regulation

- “[n]o recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by [Title VI], or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing ...” 28 C.F.R. § 42.108(e)

Reprisal in USDA Departmental Regulation 4330-002

- **“No person shall be subjected to reprisal or harassment because he or she filed a discrimination complaint; participated in or contributed to the identification, investigation, prosecution, or resolution of civil rights violations in or by a recipient of Federal financial assistance from USDA; or otherwise aided or supported the enforcement of Federal or USDA civil rights laws, rules, regulations, or policies.”**

Reviews and Resolution

Reviews

- Examine the activities of state agencies, sub-recipients, and local sites to determine Civil Rights compliance.
 - FNS Civil Rights and program staff review state agencies.
 - FNS staff and state agencies review local agencies.
 - Local agencies review their sub-recipients, such as FSMCs.
- State agencies must report significant findings in writing to the reviewed entity and FNS.

Types of Reviews

- Pre-Award Civil Rights Review
- Routine (Post-Award) Civil Rights Reviews/Administrative Reviews
- Special Civil Rights Reviews

Pre-Award Civil Rights Reviews

- State agencies, sub-recipient agencies, and local sites must be in compliance with Civil Rights requirements prior to approval for receiving federal funds.
 - Pre-Award Civil Rights Questionnaire
- No federal funds shall be made available to an institution until the Pre-Award Civil Rights Questionnaire Review has been completed and the applicant has been determined to be in compliance with Title VI.

Routine (Post-Award) Civil Rights Reviews/Administrative Reviews

- State agency or FNS reviews of local agencies include the following areas:
 - Eligible persons and households have an equal opportunity to participate
 - Availability of program information to eligible persons, program applicants, and participants
 - “And Justice for All” non-discrimination poster is prominently displayed in the required locations
 - Nondiscrimination statement included on program materials
 - Racial and ethnic data collection
 - Written Complaint Procedure and materials, e.g. complaint log
 - Civil Rights training and documentation
 - Reasonable Modifications to Accommodate Disabilities
 - Confidentiality and anonymity of eligibility categories
 - Maintenance of documents for 3 years, plus the current. Local rules may require records be maintained longer.

Special Civil Rights Reviews

- Special Civil Rights Reviews may be scheduled or unscheduled and be conducted by USDA OASCR staff and/or FNS when:
 - Significant Civil Rights concerns which have a direct impact on the delivery of the FNS program and/or benefits.
 - Statistical data indicates that a particular minority group is not participating in or benefitting from the program to the extent indicated by the population potentially eligible to participate in or benefit from the program.
 - To follow up on previous findings of noncompliance
 - To investigate reports of noncompliance by other agencies, media, or grassroots organizations
 - May be specific to an incident or policy
 - History of statistical underrepresentation of particular group(s)
 - Patterns of complaints of discrimination have developed that require follow-up.

Resolution of Noncompliance

- Noncompliance: a factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other sub-recipient.
- Immediate steps must be taken to obtain *voluntary* compliance.
- A finding's effective date is the date of notice to the reviewed entity.
- Reviewers will work with the reviewed entity to ensure compliance.

Common Civil Rights Findings during Administrative Reviews

- Not all staff involved in CNP operation have received training
- Missing procedure for handling complaints of discrimination
- Current and correct “And Justice for All” non-discrimination poster not publicly posted
- Missing non-discrimination statement from website
- Calendar menu has incorrect short non-discrimination statement

Training

Civil Rights Training

- SFAs and sponsors are responsible for annually, based on a calendar year, training all staff involved in any and all aspects of the Child Nutrition programs including:
 - All food service professionals
 - Eligibility determination and verification process personnel
 - teachers responsible for meals in the classroom, such as Breakfast in the Classroom and the Fresh Fruit and Vegetable Program (FFVP)
 - any program volunteers
- New employees must be trained before involvement in Child Nutrition duties.

Civil Rights Training for Teachers

- Due to COVID-19, the structure of meal service in School Year 2021-2022 might mean that teachers will be involved in meal service in some capacity.
- Could do a light touch of all required topics and then a deeper dive of relevant topics.
- They do not need training on Legislation and Assurances. Topics like Data Collection and Civil Rights Reviews could be briefly covered, with more time spent on topics such as Public Notification and Complaint Procedure. It is recommended they are given the PowerPoint to read through.

Civil Rights Training Documentation

- Training must be documented with dates, names, signatures, and topics covered.
- [Child Nutrition Programs Civil Rights Training Documentation](#) sign-in sheet is available on the VTAOE CNP homepage.

Purpose of Civil Rights Training

- Training is required so that individuals involved in all levels of administration of programs that receive Federal financial assistance understand Federal laws, regulations, instructions, policies, and other guidance.

Training Topics to Cover

- Specific subject matter required, but not limited to:
 - Effective public notification systems
 - Collection and use of data
 - Requirements for language assistance
 - Requirements for reasonable modifications to accommodate disabilities
 - Complaint procedures
 - Civil Rights reviews
 - Resolution of noncompliance
 - Customer service
 - Conflict resolution

Training on Complaint Procedure

- Staff should be able to identify a civil rights complaint if received.
- They should know what to do if they receive a complaint.
- Staff must understand that it is the basic right of persons to file a complaint of discrimination.

Professional Standards Coding for School Meals

- Civil Rights counts towards the annual training standards.
 - 2200- Serving Food: 2210- Identify/serve portions of food items according to USDA school meal pattern requirements and diet restrictions.
 - 3400- Human Resources and Staff Training: 3410- Understand and apply human resource management practices.
3420- Implement current personnel policies and procedures.

Ways to Receive Training

- Watch this webinar live
- Watch the recording of this webinar
- Read through the [Child Nutrition Programs Civil Rights Training PowerPoint](#)
- Incorporate the PowerPoint into your organization's online training modules
- Receive approval from VTAOECNP to use an alternative Civil Rights Training

Customer Service

Customer Service ¹

- Good customer service reduces chances of discrimination.
 - Be courteous and thoughtful.
 - Be patient and listen carefully.
 - Treat all students equally.
 - No separation by protected bases in seating arrangements, serving lines, services and facilities, or eating periods.
 - As noted in the Accommodation section, allergy-free tables, such as peanut-free tables, are acceptable, as long as they are not also “punishment” tables.
 - Know and be able to explain any requirements that must be followed.

Describe what customer service means to you!

- Take a few minutes to think about what good customer service means to you and how you plan to implement it this program year.

Conflict Resolution

Conflict Resolution ¹

- It is possible to avoid a potential civil rights complaint with conflict resolution techniques.
 - Remain calm; ask about the situation.
 - Listen and repeat back to be sure you understand.
 - Be empathetic.
 - Ask questions to gather information.
 - Get help from authority figures if there are threats or if violence is possible.

Citizenship or Immigration Status

- Verification of immigration status should never give rise to discrimination.
- Information provided on Free and Reduced-Price Meal Applications is confidential and will not be shared with Department of Homeland Security (DHS)/Immigration and Customs Enforcement (ICE).
- Applicants without Social Security numbers are still eligible to apply for free and reduced-price meal benefits.

Record Retention

- All records must be kept confidential and maintained on file for 3 years, plus the current year.
- Local rules may require records be maintained longer.

Vermont Agency of Education

Child Nutrition Programs

Contact Information

Jamie Curley
Child Nutrition Coordinator
jamie.curley@vermont.gov
(802)-828-2010

Vermont Agency of Education
Child Nutrition Programs
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

USDA FNS NERO Contact Information

Stephen Miliano

U.S. Department of Agriculture

Food and Nutrition Service

Regional Civil Rights Officer in the
Northeast Regional Office

10 Causeway Street, Suite 501

Boston, MA 02222

(617)-565-6424

stephen.miliano@usda.gov

Complete Non-Discrimination 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: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, 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.