

FCSD #2 Civil Rights Compliance in Child Nutrition Programs

**Wyoming Department of Education
Nutrition Programs Section**

Revised 5-17-22



What are Civil Rights?

“The nonpolitical rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13th and 14th Amendments to the U.S. Constitution and by acts of Congress.”



Civil Rights Legislation

- **Title VI of Civil Rights Act of 1964**
 - *Prohibits discrimination based on race, color, and national origin*
- **Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973**
 - *Prohibits discrimination based on disability*
- **Title IX of Education Amendments of 1972**
 - *Prohibits discrimination based on sex under any education program or activity that is receiving federal financial assistance*
- **Age Discrimination Act of 1975**
 - *Age*
- **USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations**
- **FNS Instruction 113-1**

<https://www.fns.usda.gov/fns-instruction-113-1>

Protected Classes

Federal law prohibits discrimination in Child Nutrition Programs based on:

Race

Color

National Origin

Sex (including gender identity and sexual orientation)

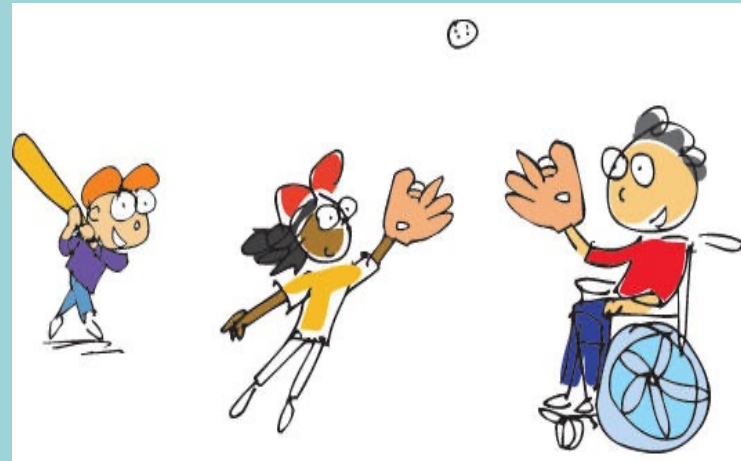
Disability

Age

Reprisal or retaliation for prior civil rights activity

What is Discrimination?

The act of distinguishing one person or group of persons from other, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes.



Civil Rights Training

Sponsors are responsible for training staff on an annual basis. At the end of the training, staff:

- Should be able to identify a civil rights complaint if received.
- Should know what to do if they receive a complaint.
- Should understand that it is the basic right of the individual to file a complaint.



Public Notification System

- All sponsors and their sites must display in a prominent place the “And Justice For All”, nondiscrimination poster .
- Provide informational materials in the appropriate translation as needed.



Nondiscrimination Statement

Full Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

fax:

(833) 256-1665 or (202) 690-7442; or

email: program.intake@usda.gov

This institution is an equal opportunity provider.

Minimum Statement

“This institution is an equal opportunity provider.”

Contact the State Agency for permission to use the short statement.

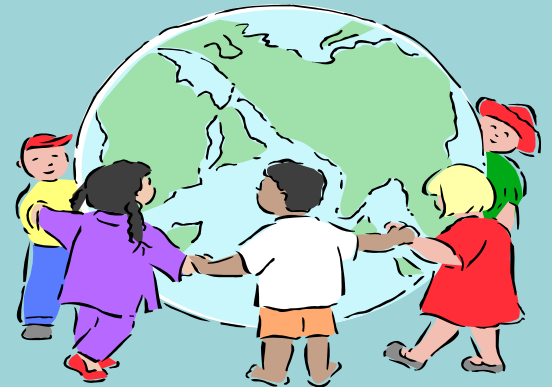
Non-Discrimination Statement

- Include the non-discrimination statement on **all** materials that mention USDA programs (including websites).
- A nondiscrimination 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.

FCSD #2 has the minimum statement printed on the monthly menus for compliance

Also...

- When using graphics, reflect diversity and inclusion.



Racial/Ethnic Data Collection

- Sites need to establish a system to collect racial and ethnic data.
 - Self-identification preferred
 - Staff can make an observation of ethnicity and race then record
- Data must be collected on an annual basis

FCSD #2 households report racial and ethnic data upon registration.



Racial/Ethnic Data Collection

Collect ethnic data first, then racial data:

Ethnicity

1. **Hispanic or Latino**
2. **Not Hispanic or Latino**

Race

1. **American Indian or Alaskan Native.**
2. **Asian**
3. **Black or African American**
4. **Native Hawaiian or Other Pacific Islander**
5. **White**

Compliance Reviews

The purpose is to determine if the applicant or recipient of Federal financial assistance is in compliance with civil rights requirements



Types of Compliance Reviews

1. Pre-Award

- With application for new Sponsor

2. Post-Award

- Desk or on-site review
- Encompasses all phases of the operation as outlined in civil rights and program regulations

3. Special Review

- As a result of complaints



Pre-Award

- Demographics of the population to be served
- Documentation of efforts used to assure that all eligible populations have opportunity to participate
- Nondiscrimination statement on application
- Documentation of outreach efforts to contact grassroots organizations about the program
- Location of proposed facilities to determine if the location will deny access to all eligible populations
- Any other Federal agencies providing financial assistance and whether the applicant has ever been in noncompliance by those agencies

Post-Award

- Displaying nondiscrimination poster in conspicuous location
- Nondiscrimination statement on all printed materials and web sites
- Sponsor provides outreach materials to organizations within the community to reach all eligible populations
- Ethnic and racial data collected and maintained for 3 years
- Annual civil rights training conducted for staff
- Procedure in place to handle civil rights complaints in accordance with regulations

Pre and Post Award documents are done with the school nutrition program application in May by the FCSD #2 food service director.

Civil Rights Complaints

- Right to file a complaint: Any person who believes he or she has been discriminated against based on race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program has a right to file a complaint within **180 days** of the alleged discriminatory action.
- How to file a complaint:

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by: **mail**: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW Washington, D.C. 20250-9410; or **fax**: (833) 256-1665 or (202) 690-7442; or **email**: program.intake@usda.gov

Forms of Civil Rights Complaints

- **May be written or verbal**
 - If receiving a verbal complaint, *listen politely*
 - Complaints can be made via phone, letter, email, fax or any other form of communication
- **May be anonymous**
 - Anonymous complaints should be handled as any other complaint
- **May be related to any area of CNP operation**
 - Program administration, food service, employment

Reasonable Accommodations

Sponsors must make reasonable accommodations for persons with disabilities.

All sponsors participating in Child Nutrition Programs are *required* to provide FOOD SUBSTITUTIONS or MODIFICATIONS if:

- A medical authority's* statement is on file that describes the participant's medical need that prevents the participant from eating the regularly offered foods, and...
- The medical authority has indicated the substitutions or modifications that the participant needs.

The Special Diet Statement from the medical authority is kept in the FCSD #2 school nurse's office.

***Medical Authority: an individual who is licensed to write prescriptions in the State of WY.**

Reasonable Accommodations also include:

- Accessibility of state and local agency websites, and online application systems to persons with visual impairments, hearing impairment and other disabilities.
- Physical Program access to persons in wheelchairs and with mobility disabilities.
- Accessibility through Braille, large print and audio tape and other alternative formats.
- And accessibility to American Sign Language (ASL) and interpreters.

Reasonable Accommodations

As a Child Nutrition Program sponsor, you are required to make sure that persons with disabilities have the following:

- accessibility to the program;
- effective communication with staff;
- easy access to buildings;
- And menu substitutions or modifications

Limited English Proficiency (LEP)

- Definition: Individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.

All organizations receiving Federal financial assistance have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with LEP.

Primary factors to consider when determining reasonable steps:

1. Number of LEP individuals participating in the program.
 - The greater the number = the higher the need
2. Frequency of contact with the program.
3. Nature and importance of the Program.
4. Resources available.
 - Accessibility of a translator for applications, etc.
 - Availability of materials in various languages

SHORTAGE OF RESOURCES DOES NOT ELIMINATE REQUIREMENT!!!



LEP Resources

- www.lep.gov
 - Information and resources
 - “I Speak” card
- Household applications in other languages
<https://www.fns.usda.gov/cn/translated-applications>



Customer Service is Important

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

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**



Customer Service

Treat all participants with dignity and respect

- Respond to questions in a non-threatening manner (voice tone)
- Recognize that participants have varied needs and (sometimes) few resources
- Recognize when a person feels they have been treated in a rude manner
- Develop good listening skills

Civil Rights Trainings

- SFAs must ensure all employees receive civil rights training annually.
- Training must be documented with an agenda and attendees' signature of attendance.
- Civil rights trainings must include photos and graphics that depict equal opportunity and diversity.

Assurance Language

1“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 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.”

(FNS Instruction 113-)

Resolution of 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, sub recipient agency, or a local site.
- Steps must be taken immediately to obtain *voluntary* compliance.
- A finding's effective date is the date of notice to the reviewed entity.

IMPORTANT!

- Please stop in Nurse Hinkle's office and sign the Civil Rights Training sheet.
- Never hesitate to ask questions about a Civil Rights matter.

Thank you for participating in the annual training to keep our school in compliance!

“How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving, and tolerant of the weak and strong. Because someday in life you will have been all of these.”



George Washington Carver