

CIVIL RIGHTS REQUIREMENTS

This manual section provides policy and guidance from Food and Nutrition Services Instruction (FNS) 113-1 and SDE. FNS 113-1 was established to convey policy and provide guidance and direction to the United States Department of Agriculture, Food and Nutrition Service and its recipients and customers to ensure compliance with and enforcement of the prohibition against discrimination in all Food and Nutrition Service nutrition programs and activities, whether federally funded or not. FNS 113-1 is located on the CNP website under the Civil Rights resource tab for your reference.

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Policy

The U.S. Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. **(Not all prohibited bases apply to all programs.)** For FNS nutritional assistance programs which include CACFP, the six protected bases include race, color, national origin, age, sex (including gender identity and sexual orientation), and disability.

OFFERING CACFP IN A NON-DISCRIMINATORY MANNER

Civil Rights regulations are intended to assure that benefits of the Child and Adult Care Food Program (CACFP) are made available to all eligible persons. This includes:

- Making every effort in recruitment and enrollment procedures to allow equal participation by all eligible participants and potential participants regardless of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability.
- Distributing and classifying the Income Eligibility forms (IEF) in a way that is fair to all and does not discriminate based on race, color, national origin, age, sex (including gender identity and sexual orientation), or disability.
- Serving meals in a way that allows equal participation regardless of race, color, national origin, age, sex (including gender identity and sexual orientation), or disability.

DISCRIMINATORY PRACTICES

Discrimination is when an individual or a group of individuals are:

- Denied a benefit or service that others receive,
- Delayed receiving a benefit or service that others receive, or
- Treated differently than others.

When individuals or a group of individuals in a protected class (race, color, national origin, age, sex (including gender identity and sexual orientation), or disability) complain they have been discriminated against, it is the Institution's responsibility to assist the complainants to report the alleged incident(s), investigate the incident in a fair and impartial manner, and to work with SDE and/or the USDA to resolve the complaint.

Examples of discriminatory practices include:

- Refusing to allow an eligible child or adult to be enrolled based on his/ her disability
- Failing to provide participants with disabilities reasonable accommodations to receive benefits
- Serving meals at a place, time, or in a manner that discriminates based on race, color, national origin, sex (including gender identity and sexual orientation), age, or disability
- Selectively distributing IEF forms to only some households (For example, distributing IEF forms only to those households the Institution thinks will qualify for Free or Reduced-Price eligibility)
- Failing to apply the same eligibility criteria to all potential participants
- Failing to provide materials that give non-English speaking persons full and equal opportunity to receive benefits

Reasonable accommodations shall not fundamentally alter the nature of the program or create undue administrative or financial burden on the Institution. Note: Some financial burden is expected; Institutions shall determine what is reasonable and can negotiate accommodations and give alternatives that will meet the participants' needs due to their disability. Institutions are encouraged by SDE to maintain written policy and procedures for making reasonable accommodations for participants due to disabilities.

OBLIGATION TO OFFER INFANT MEALS IN THE CACFP

All childcare centers, Head Start programs and homeless institutions participating in the Child and Adult Care Food Program (CACFP) must offer meals to all children enrolled for care in their facilities, including infants.

An Institution may not avoid this obligation by stating that the infants are not “enrolled” in the CACFP, or by citing a logistical or cost barrier to offering infant meals. Decisions about offering CACFP meals must be based on whether the child is enrolled for care, not whether the child is enrolled in the CACFP. Institutions must collect and maintain signed Infant Feeding Benefit Notification and Acknowledgement forms for all infants in care that show CACFP benefits were offered to parents/guardians.

When an infant is in care during the meal service period, the Institution must offer the infant meals that comply with CACFP requirements. If the Institution’s policy allows parents/guardians to supply formula or food, the parent/guardian may decline what is offered and supply the infant’s meals instead. See the Meal Service and Meal Pattern sections of the manual for more information on parents/guardians supplying meals for infants in care.

Collecting Racial and Ethnic Data

Institutions are required to report the race and ethnicity of all program participants annually and compare this data to potential eligible data in the Institution's service area (by counties). The method of data collection for participants is self-identity or self-reporting. For example, a parent checks the ethnicity and race box on their enrollment form, income eligibility form or facility application. Please remember you cannot ask a child or adult participant their race or ethnicity.

COLLECTING AND REPORTING RACIAL/ETHNIC DATA

SDE requires annual reporting on the ethnic and racial data of participants and potential eligible data in service area (county data) during the new application and annual updates application process. The data is reported in the Institution's application packet in MyIdahoCNP on the Civil Rights Information form. When approving application packets SDE will review the participant data to the Institution's potential service area eligible data (county). If disparities occur SDE will investigate the reason for the disparity and shall request the Institution to provide additional outreach in their service area.

Institutions shall develop a system of data collection specific to their individual organization. For example: An Institution may collect the racial and ethnic data by participants from enrollment or eligibility forms. When obtaining data, both race and ethnicity shall be recorded for each participant. Ethnicity refers to the question-Is a person Hispanic or Latino or Not Hispanic or Latino? Participants can choose from either category. The Institution shall record the racial ethnic data in an electronic system or maintain hard copy records. The SDE has a CACFP Participant Data Form Institutions may use to collect and consolidate the data. The data reported to the state agency annually must be maintained for three years plus the current program year. The data must be maintained under safeguards, restricting access of records only to authorized personnel.

Census county data is used to document the potential racial and ethnic data for the counties in Idaho the Institution serves. The 2020 census data and the CACFP Participant Data Form are located on the SDE website under Civil Rights resource files at <https://www.sde.idaho.gov/cnp/resource-center.html>.

Public Notification

EFFECTIVE PUBLIC NOTIFICATION SYSTEMS

Institutions are required to make public, via public announcement, their program availability. This ensures that qualified participants are aware of the program.

Compliance with public notification systems include providing information in other formats for those with disabilities. An example of this may be; providing large print or braille menus for those who are visually impaired. Nondiscrimination statements must be included on all media mentioning USDA funded Child Nutrition programs. Information that is directed to parents, employees, potential participants/employees or other public groups and that mentions the CACFP or USDA meals must also include the non-discrimination statement. Informational materials that require the statement include, but are not limited to:

- Employee handbooks
- Enrollment and eligibility forms
- Menus
- Newsletters
- Brochures
- Parent handbooks
- Print or broadcast advertisements
- Flyers

Equal opportunity must be conveyed when using photographs. Include a good representation of various ages, races, genders, etc. For the website or social media, at the minimum, the full nondiscrimination statement, or a link to it, must be included on the home page of the program information.

Institutions must display the non-discrimination poster “And Justice for All” in a prominent location, where parents, adult participants and the general public can see and read it. Examples are the building entrance or lobby, cafeteria, or other serving areas such as the classrooms. Please make sure you are displaying the most current nondiscrimination poster. Day care homes are the only exception for posting the “And Justice for All” poster. Posters are available at SDE.

The Idaho State Department of Education submits an annual public media release for all Institutions statewide. This release meets the public notification requirements in 7 CFR 226 but Institutions may choose to submit their own media release to their local media. The

poster, long nondiscrimination statement and statewide media release inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.

MINORITY AND GRASS ROOTS ORGANIZATIONS

All CACFP Institutions are required to contact minority and grassroots organizations to recruit potential participants. Organizations to contact may include, but are not limited to, schools/colleges, early intervention, health care systems, childcare provider organizations, religious organizations, advocacy organizations, and community action programs, civic organizations, migrant group and cultural outreach programs.

Requirements for Reasonable Accommodation of Persons with Disabilities

Civil Rights requirements state that reasonable accommodation must be made for persons with disabilities. For example, ramps for those in wheel chairs to access the food program or food component substitutions for participants with a medical condition that provide a medical statement from a medical authority.

Requirements for Language Assistance

Civil Rights requirements state that provisions must be made for non-English speaking program participants or limited English proficiency (LEP). Just one in a facility requires the Institution to make meaningful access to the program. Depending on the number of LEP participants or applicants, the organization can determine what type of language service is needed and most cost effective; interpreter services, translation and resources. For a small number of language services the Institution may choose to use an interpreter, but if the Institution has a large population of participants speaking and reading one language, the Institution's best option is to translate materials. For example, enrollment forms or menus may need to be translated into Spanish. Another example of language assistance would be providing braille or large print for visually impaired program participants.

The SDE provides specific documents such as agreements, income eligibility and enrollment forms, civil rights training handout, menu resources etc. in Spanish. These documents may be found in MyIdahoCNP under download forms. In addition, the SDE-CNP website has a link to the FNS-USDA website for Income Eligibility Forms translated in multiple languages.

Complaint Procedures

USDA has set a procedure for discrimination complaints based on instructions in FNS 113-1. Sponsors are also required to make Civil Rights complaint information available upon request.

Right to File- Any person alleging discrimination based on a protected class has the right to file a complaint within 180 days of the discriminatory action.

Acceptance- All complaints, written or verbal, must be forwarded to the State Agency within 3 days. Anonymous complaints will be handled as any other complaints.

Verbal- If a person makes a verbal complaint via phone or in person and refuses or is not inclined to place allegations in writing, the person to whom the allegations are made must write up the complaint, making an attempt to collect specific information.

When documenting a Civil Rights complaint, the following information should be included;

- Name, address, telephone number of the complainant, if provided by complainant (complainants are not required to provide this information)
- Specific location and name of entity delivering the service or benefit
- The nature of the incident, action or method of administration that led the complainant to feel discriminated against
- The basis on which the complainant believes that discrimination exists
- Names, phone numbers and titles and business or personal addresses of persons who may have knowledge of the discriminatory action
- Date(s) the action occurred

The Institution's written Civil Rights complaint procedure must describe:

Where the Civil Rights Complaint Forms and Civil Rights Complaint Log will be kept at each site and at the administrative offices

Who is trained on the Institution's Civil Rights procedure

How Civil Rights complaints will be recorded in the Civil Rights Complaint Log

Procedures for receiving and forwarding an alleged civil rights complaint, Civil Rights Complaint Procedure and methods to resolve conflict and provide reasonable accommodations.

CIVIL RIGHTS DOCUMENTATION

Institutions and each sponsored facility must maintain formal documentation of the Institution's Civil Rights complaint policy, procedure, tracking logs documenting any Civil Rights complaints and follow-up action, racial/ethnic data by participant and training provided by the Institution. Most Institutions and their sponsor facilities maintain this documentation in a binder or a folder. The SDE has sample complaint forms, procedures, and data collection forms on the CNP website under the Civil Rights resource tab for your reference. In addition, all Civil Rights forms and procedures are located in MyIdahoCNP download forms.

Civil Rights Training

Training is required so that people involved in all levels of administration of programs that receive Federal financial assistance understand civil rights related laws, regulations, procedures, and directives. Persons responsible for reviewing Civil Rights compliance must receive training to assist them in performing their review responsibilities. This training may be carried out as part of ongoing technical assistance.

State agencies are responsible for training Child Nutrition Program sponsors. Sponsors are responsible for training their staff, which includes “frontline staff”. Frontline staff is all staff and volunteers that interact with program applicants or participants and those who supervise “frontline staff”. Training must occur before the staff assumes their duties in Child Nutrition Programs and annually thereafter. Sponsors must document the training with an agenda and sign-in sheet for all participants.

STAFF TRAINING

The Institution official who attends SDE training must provide Civil Rights training to all its frontline staff. Initial and annual Civil Rights training must be documented. Required training topics are:

- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Compliance review techniques and resolution of noncompliance
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service

Institutions may use the Civil Rights Training for Staff Form, or they may develop one of their own.

USDA Non-Discrimination Statement – Long Form English

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/ad-3027.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:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:** (833) 256-1665 or (202) 690-7442; or
3. **email:** Program.Intake@usda.gov

This institution is an equal opportunity provider.

USDA Non-Discrimination Statement – Long Form Spanish

De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo (incluyendo identidad de género y orientación sexual), discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: <https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf>, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a 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; or

(2) fax: (833) 256-1665 o (202) 690-7442; o

(3) correo electrónico: program.intake@usda.gov

Esta institución es un proveedor que ofrece igualdad de oportunidades.

USDA Non-Discrimination Statement – Short Form

The full non-discrimination statement must be included on all material mentioning USDA-funded Child Nutrition Programs, including household letters, web pages, social media, and other food related program announcements. If the material is too small to permit the full statement to be included, such as marketing material (flyers, menus, and brochures), the material will, at a minimum, need to include the short non-discrimination statement, in print size no smaller than the text.

“This institution is an equal opportunity provider.”

USDA Non-Discrimination Statement – Short Form Spanish

“Esta institución es un proveedor que ofrece igualdad de oportunidades.”

Customer Service

Customer service involves treating all program participants and their families fairly and equally. Frontline servers should be enabled to provide the best customer service possible to families and recipients of Child Nutrition programs. Accountability and awareness of discrimination are key components to good customer service.