



CONNECTICUT STATE DEPARTMENT OF EDUCATION

# Civil Rights

*Your Responsibilities in the School Nutrition Programs*



August 2020

## Civil Rights Program Authorities



- 28 CFR Part 42: Nondiscrimination in Federally Assisted Programs
- Food and Nutrition Services (FNS) Instruction 113-1 Appendix B
- Executive Order 13166: Addresses/improves access requirements for persons with Limited English Proficiency (LEP)



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## Topics



- Civil Rights Overview
- Assurances
- Public Notification
- Data Collection
- Language Assistance
- Accommodations
- Customer Service
- Conflict Resolution
- Complaint Procedure
- Compliance Reviews/Resolution



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## Civil Rights Program Authorities




- U.S. Department of Agriculture (USDA) LEP Policy Guidance (79 Federal Register No. 229. Friday, November 28, 2014)
- 7 CFR Part 16: "Equal Opportunity for Religious Organizations"
- USDA Department Regulation 4330-2: Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA




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## Civil Rights Legislation




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



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## USDA Civil Rights Policy



### Food and Nutrition Service (FNS) Instruction 113-1

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

<https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>




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### USDA Civil Rights Policy

FNS Instruction 113-1 applies to

- National School Lunch Program (NSLP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)
- Fresh Fruit and Vegetable Program (FFVP)
- Afterschool Snack Program (ASP)

<https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>




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### What is Discrimination

The act of distinguishing one person or group of persons from others based on the protected bases

- Intentional, e.g., not accommodating a disabled child with a dietary need verified by a recognized medical authority
- Neglect or omission
- Effect of actions or lack of actions, e.g., intentionally delaying approval of an eligibility application



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### Purpose of Civil Rights

- Equal opportunity to participate in and access benefits and services



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### Assurances


- To qualify for federal financial assistance, all programs need a written assurance that the program or facility will be operated in compliance with the civil rights laws, and implementing nondiscrimination regulations



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### Civil Rights Overview

USDA Protected Classes	CSDE Protected Classes
<ul style="list-style-type: none"> <li>▪ Race</li> <li>▪ Color</li> <li>▪ National origin</li> <li>▪ Age</li> <li>▪ Sex</li> <li>▪ Disability</li> </ul>	<p><b>All federal, plus</b></p> <ul style="list-style-type: none"> <li>▪ Religious creed</li> <li>▪ Ancestry</li> <li>▪ Marital status</li> <li>▪ Sexual orientation</li> <li>▪ Gender identity or expression</li> <li>▪ Genetic information</li> </ul>



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### Assurances


- A civil rights assurance must be incorporated in all agreements between state and local agencies
  - included in CSDE's new Permanent Agreement for Child Nutrition Programs (CNP)
- FNS Instruction 113-1 Appendix B contains required language for NSLP, SMP, SBP, FFVP, and ASP



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## Assurances

- **Retailer and vendor agreements (contracts, including FSMC) must also include an assurance of nondiscrimination**
  - **Example:** If a school food authority (SFA) contracts with a FSMC to provide food service to students, the **SFA is responsible** for ensuring that their FSMC complies with civil rights requirements



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## Civil Rights Assurance Statement

### NSLP, SBP, SMP, FFVP, ASP

"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 50.3 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 113-1 Appendix B  
<https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>



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## Assurances

- **Prescribed language must be included in all**
  - contracts
  - Memoranda of Understanding (MOU)
  - Memoranda of Agreement (MOA)




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## Public Notification

**SFAs must notify the public of their participation in USDA school nutrition programs**


- Program availability
- Program rights and responsibilities
- Policy of nondiscrimination
- Procedure for filing a complaint



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## Assurances


- **The assurance is binding on the program application and its successors, transferees, and assignees as long as they receive assistance or retain possession of any assistance from the USDA**



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## Public Notification Methods


- **Inform community of program and details**
  - Internet, newspaper articles, radio and TV announcements, letters, bulletins, etc.
  - Eligibility, benefits, services, facility location, hours and delivery points
- **Provide appropriate information in alternative formats for person with disabilities and in the appropriate languages for LEP persons**



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## Public Notification Methods

- Convey equal opportunity in photos and other graphics in program-related information
- Include the required nondiscrimination statement on all appropriate publications, websites, posters and informational materials




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## "And Justice for All" Poster

Exception for SY 2020-21:

- If all meals are brought to the classroom, and it is not feasible to hang a poster in each classroom due to the exceptional circumstances of the public health emergency, then a poster should be placed in all entryways of the site and visible to all persons who enter the building.
- A poster must be visible for remote learners and/or parents/guardians picking up grab-and-go meals



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## "And Justice for All" Poster

All entities participating in Child Nutrition Programs must prominently display the USDA "And Justice for All" poster where participants and potential participants have access



<https://fns-prod.azureedge.net/sites/default/files/cr/Justice-poster-general.pdf>




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## "And Justice for All" Poster

Exception for SY 2020-21:


- Because the CSDE was unable to distribute the new "And Justice for All" posters to SFAs in spring 2020, SFAs may print and copy the poster for use in cafeterias, classrooms, and common areas, etc., until such time as SFA obtains the posters are
- The poster and translations is available at <https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations>



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## "And Justice for All" Poster

- If the school/site provides meals (breakfast, snack or milk) in the classroom and lunch or other meals in the cafeteria, the school/site is only required to display the poster in the cafeteria
  - Exception:** If a student never visits the cafeteria due to disability or other reason, that classroom or location would require a poster (but not all classrooms)



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## 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, 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: [How to File a 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:

- mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- fax: (202) 690-7442; or
- email: [program.intake@usda.gov](mailto:program.intake@usda.gov).


This institution is an equal opportunity provider.



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### Nondiscrimination Statement

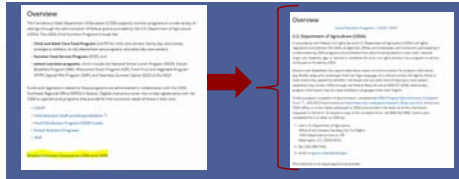

- The nondiscrimination statement must be on
  - application forms
  - notification Letters
  - state agency and SFA program webpages (English and Spanish)
  - information developed for public information



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### Nondiscrimination Statement


- Webpages with information pertaining to the Child Nutrition Programs must
  - include full statement **OR**
  - contain a direct link to full statement

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### Nondiscrimination Statement

- Short statement can be used in special circumstances only (menu, one page flier)
  - *“This institution is an equal opportunity provider.”*




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### Nondiscrimination Statement

- Other language translations are available on the FNS Civil Rights webpage

<https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>

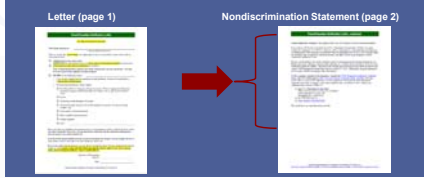
Amharic - [Word]	Korean - [Word]
Arabic - [Word]	Laotian - [Word]
Armenian - [Word]	Polish - [Word]
Chinese, Simplified - [Word]	Portuguese - [Word]
Chinese, Traditional - [Word]	Russian - [Word]
Creole - [Word]	Serbo-Croatian - [Word]
English - [Word]	Somali - [Word]
Farsi - [Word]	Spanish - [Word]
Hindi - [Word]	Thai - [Word]
Hmong - [Word]	Urdu - [Word]
Khmer - [Word]	Vietnamese - [Word]




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### Nondiscrimination Statement

- Vital documents about sensitive topics require **full** statement, even if one page
  - For example, CSDE’s one-page sample parent/guardian notification letter for free and reduced-price meals has the full USDA nondiscrimination statement on page 2



<https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/Forms/FreeRed/ParentNotificationLetter.pdf>




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### Collection and Use of Data

#### Collection of Data

- Develop a method for data collection on the racial/ethnic breakdown of potential participants (free and reduced applications or data collected by school officials)
  - Sources include census or public school enrollment




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### Collection and Use of Data

**Collection of Data**

- Any data collected about beneficiaries must be kept secure and confidential
- Maintain all records
  - Current to 3 years prior




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### Complaint Procedures

Civil Rights complaint procedures are outlined in FNS Instruction 113-1

- SFA must have a written, formal procedure for receiving and processing complaints alleging discrimination within FNS programs (NSLP, SBP, SMP, FFVP, ASP)
- SFA **must** use the CSDE issued complaint procedure
  - The procedure as written cannot be edited

<https://portal.ct.gov/-/media/SDE/Nutrition/CivilRights/SNPCivilRightsComplaint.doc>




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### Collection and Use of Data

**Use of Data**


- To determine how effectively CNPs are reaching potentially eligible persons and beneficiaries
- Outreach efforts can be targeted
- Information is used for statistical purposes only and has no effect on eligibility criteria



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### Complaint Procedures

- SFA will provide the complainant with information pertaining to filing a Program Discrimination Complaint as a USDA Customer
- Nondiscrimination statement provides instructions (English and Spanish)
- SFA will refer complainant to FNS Civil Rights website



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### Collection and Use of Data

**Use of Data**

- Verification of citizenship or immigration status should **never** give rise to discrimination



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### Complaint Procedures

- All civil rights complaints shall be accepted and forwarded to the USDA Office of the Assistant Secretary for Civil Rights (OASCR)
  - mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
  - fax: (202) 690-7442; or
  - email: [program.intake@usda.gov](mailto:program.intake@usda.gov)



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### Complaint Procedures

- Individuals must file a complaint within 180 days from the act of discrimination
- Complaints may be written or verbal
- Never discourage groups or individuals from filing complaints or from voicing allegations of discrimination
- Notify CSDE that a complaint has been or may be filed



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### Language Assistance


- Limited English Proficiency (LEP) individuals
  - do not speak English as their primary language
  - have limited ability to read, speak, write or understand English
- SFAs have a responsibility to take **“reasonable steps”** to ensure **meaningful access** to their programs and activities by a LEP person



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### Complaint Procedures


- Maintain a tracking log of complaints received and forwarded to OSCAR
- The procedures for receiving a complaint should not prevent a complaint from being accepted
- The SFA will not attempt to resolve the complaint themselves



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### Language Assistance


- Reasonable steps must be taken to ensure meaningful access to the programs and activities
  - Providing documents in a variety of languages (translation)
  - Providing interpretation services to those that need help in completing applications
  - Providing verbal information for those that are unable to read the written information provided



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### Verbal Complaints

- If complainant will not put the complaint in writing, the SFA must do so
- Use the USDA Discrimination Complaint Form to ensure you capture all of the required information
  - English
    - [https://www.ocio.usda.gov/sites/default/files/docs/2012/Complain\\_combined\\_6\\_8\\_12.pdf](https://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf)
  - Spanish
    - [https://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6\\_8\\_12\\_0.pdf](https://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf)



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### Language Assistance

- What constitutes **“reasonable steps”** depends on four factors
  1. The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient
  2. Frequency with which LEP individuals come in contact with the program
  3. Nature and importance of the program, activity, or service provided by the program
  4. Resources available and their costs




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## Language Assistance

**What is meaningful access?**


- Meaningful access is accomplished by providing reasonable, competent/qualified, accurate, and effective language services to individuals with LEP when accessing recipient programs and activities



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## Language Assistance


- SFAs must identify their district’s predominant languages and provide documents or services to participants and their families in those languages
  - Free and reduced-price applications
  - Notification letters
  - Interpretive services for parent questions



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## Language Assistance

- USDA provides application forms in many foreign languages
  - <https://www.fns.usda.gov/school-meals/translated-applications>
- Foreign language teachers and community organizations may have resources to help with translations (written and verbal)




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## Language Assistance -Taglines

**LEP Taglines**

- A phrase in different languages that guides a person to where they can obtain language assistance services
- Top six languages spoken in Connecticut for school year 2018-19 (EdSight)
  - Spanish
  - Portuguese
  - Arabic
  - Creole-Haitian
  - Mandarin
  - Polish



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## Language Assistance

- Volunteers may be used, but make sure they are competent/qualified, understand interpreter ethics, and maintain participant confidentiality
  - Children **cannot** be used as interpreters




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## Language Assistance

- Sample taglines are available

Sample Tagline Informing Individuals with Limited English Proficiency of Language Assistance Services	
English	ATTENTION: If you speak <b>limited language(s)</b> , language assistance services, free of charge, are available to you. Call 1-800-828-6263 (TTY: 1-800-828-6263).
Spanish	ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-828-6263 (TTY: 1-800-828-6263).
Arabic	ملاحظة: إذا كنت تتحدث اللغة العربية، يمكنك المساعدة باللغة لتجاوز أي عوائق. اتصل برقم 1-800-828-6263 (TTY: 1-800-828-6263).
Chinese	注意：如果您使用繁體中文，您可以免費獲得語言協助服務。請致電 1-800-828-6263 (TTY: 1-800-828-6263)。
Portuguese	ATENÇÃO: Se fala português, necessitamos de disposições de assistência linguística, grátis. Ligue para 1-800-828-6263 (TTY: 1-800-828-6263).
Polish	UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Zadzwoń pod numerem 1-800-828-6263 (TTY: 1-800-828-6263).
Creole	ATANSYON: Si w pale Kreyòl Ayisyen, pou wèsi ed pou lang ki disponn gratis pou ou. Rete 1-800-828-6263 (TTY: 1-800-828-6263).

<https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/Forms/FreeRed/TaglinesForeignLanguage.pdf>




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## Language Assistance

- **District Website**
  - Does the website have the ability to provide information in another language?
  - Would an LEP individual be able to find out how to access the webpage in another language?
  - Work with your IT department to make the district website more accessible to LEP persons




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## Language Assistance

- **CSDE English Learners Website**
  - English Learners and Bilingual Education Statutes
  - Connecticut English Language Proficiency (CELP) Standards
  - English Learners Data Bulletin

<https://portal.ct.gov/SDE/English-Learners/English-Learners>




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## Language Assistance


**Compare the two examples**


If Spanish was your native language and you couldn't read English, which format would be the most helpful to indicate the website was available in other languages?

Example 1



Example 2






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## Language Assistance

- **More information and resources available on the LEP Website**

<https://www.lep.gov/>




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## Language Assistance


**Answer: Example 2**

Example 2 shows the language options recognizable to an LEP individual

Example 2




**Work with your district or school website designer to see if the website has the capability to offer language assistance in this way**



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## Disability Discrimination

- Sections 504 and 508 of the Rehabilitation Act of 1973 and 7CFR Par 15b, prohibit discrimination based on disability in programs or activities receiving Federal financial assistance
- The 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 government
- These civil rights laws protect persons with disabilities if they are potential applicants or participants in any FNS funded programs




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### Disability Discrimination

**“Person with a disability”** has a physical or mental impairment which substantially limits one or more major life activity, has a record of such an impairment, or is regarded as having and impairment

*Source: Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act (ADA) of 1990, and the ADA Amendments Act of 2008 (P.L. 110-325)*



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### Examples of Accommodations

- Access for persons in wheelchairs and other mobility limitations
- Access for those with limited vision
- Using American Sign Language (ASL) and interpreters
- Substitutions for children whose disability restricts their diet



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### Disability Discrimination

- It is imperative that SFA websites and online application systems are readily accessible to and useable by persons with visual impairments and other disabilities
- Programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheel chairs and with mobility disabilities




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### Special Diets Resources

CSDE website: Accommodating Special Diets in School Nutrition Programs

- CSDE’s Guide: *Accommodating Special Diets in School Nutrition Programs*
- Summary Chart (Overview of USDA Requirements)
- Medical Statement
- Guidance and Instructions for Medical Statement
- Allowable Milk Substitutes
- Additional Resources

<https://portal.ct.gov/SDE/Nutrition/Special-Diets-in-School-Nutrition-Programs>



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### Disability Discrimination

- In some cases, different or special treatment may be necessary to ensure effective aids, benefits and services are reasonable




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### Special Diets Resources

CSDE Presentation: Requirements for Meal Modifications in School Nutrition Programs

<https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/SpecDiet/SpecialDietsPresentation.pdf>



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## Customer Service

- Good customer service reduces chances of discrimination complaints
  - Be courteous and thoughtful
  - Be patient and listen carefully
  - Treat all students equally (no seating arrangements, serving lines, services and facilities or eating periods separated by protected class)



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## Compliance

- Pre-award compliance review
- Ongoing compliance is verified during Administrative Reviews
  - Pre-award and ongoing, SFA must inform CSDE of any complaints or litigation filed against SFA
- CSDE reports significant findings to USDA
- All findings require corrective action
- Follow-up visit may be needed to assure compliance




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## Conflict Resolution

This area must be covered in SFA's Civil Rights procedures

- Include how SFA will process a complaint with the goal of providing a solution with the assistance of the state agency and USDA, as needed
- Refer to "FNS-113 Complaint Processing Procedures & Timelines" diagram for a summary of handling Civil Rights complaints and required timeframes

<https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>



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## Required Training

- USDA requires that all staff who works with program applicants or participants receives annual Civil Rights training
- All staff includes front line staff, supervisors, and determining, verifying and hearing officials
- Training records are required
  - agendas, sign-in sheets




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## Conflict Resolution

If a situation has potential to become a civil rights complaint, it may be possible to deescalate with mediation or conflict resolution techniques


- Remain calm and ask about the situation
- Repeat the complaint back and make sure you understand the complaint
- Try to help those involved work out their differences
- Get help if threats or violence is possible



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## Required Training Topics

▪ Data collection and use	▪ Resolution of noncompliance
▪ Effective public notification	▪ Reasonable accommodation for disabilities
▪ Complaint procedure	▪ Language assistance
▪ Compliance review techniques	▪ Conflict resolution
	▪ Customer service




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## Required Training




- This PowerPoint presentation is available on the CSDE’s Civil Rights website for SFAs to use in providing staff training
- Training should be documented for each staff member as part of the Professional Standards training requirements

<https://portal.ct.gov/SDE/Nutrition/Civil-Rights-for-Child-Nutrition-Programs>



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## Questions



CSDE Consultants for School Nutrition Programs

County	Consultant
<ul style="list-style-type: none"> <li>▪ <b>Fairfield County</b> (includes Region 9)</li> <li>▪ <b>Litchfield County</b> (includes Regions 1, 6, 7, 12, and 14)</li> </ul>	<p><b>Fionnuala Brown</b>                      fionnuala.brown@ct.gov                      860-807-2129</p>
<ul style="list-style-type: none"> <li>▪ <b>Hartford County</b> (includes Region 10)</li> <li>▪ <b>Middlesex County</b> (includes Regions 4, 13, and 17)</li> </ul>	<p><b>Teri Dandeneau</b>                      teri.dandeneau@ct.gov                      860-807-2079</p>
<ul style="list-style-type: none"> <li>▪ <b>New Haven County</b> (includes Regions 5, 15 and 16)</li> <li>▪ <b>New London County</b></li> <li>▪ <b>Tolland County</b> (includes Regions 8 and 19)</li> <li>▪ <b>Windham County</b> (includes Region 11)</li> </ul>	<p><b>Susan Alston</b>                      susan.alston@ct.gov                      860-807-2081</p>

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