



CONNECTICUT STATE DEPARTMENT OF EDUCATION

Civil Rights

Your Responsibilities in the School Nutrition Programs



August 2023

1

Topics




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




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2

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 (including gender identity and sexual orientation)
■ Age Discrimination Act of 1975	Age



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3

Civil Rights Program Authorities



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



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4

Civil Rights Program Authorities




- USDA LEP Policy Guidance (79 Federal Register No. 229. Friday, November 28, 2014)
- 7 CFR Part 16: “Equal Opportunity for Religious Organizations”



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5

Civil Rights Program Authorities



- USDA Regulation 4330-2: Prohibits discrimination in programs and activities receiving Federal financial assistance from USDA
- Bostock v. Clayton County, 140 S. Ct. 1731, 590 U.S. ___(2020)



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6

USDA Civil Rights Policy



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



CONNECTICUT STATE DEPARTMENT OF EDUCATION 7

7

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)
- Seamless Summer Option (SSO) of the NSLP

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



CONNECTICUT STATE DEPARTMENT OF EDUCATION 8

8

Purpose of Civil Rights



- Equal opportunity to participate in and access benefits and services



CONNECTICUT STATE DEPARTMENT OF EDUCATION 9

9

Civil Rights Overview



USDA protected classes	CSDE protected classes
<ul style="list-style-type: none"> ■ Race ■ Color ■ National origin ■ Sex (including gender identity and sexual orientation) ■ Disability ■ Age ■ Reprisal or retaliation for prior civil rights activity 	<p>All federal, plus</p> <ul style="list-style-type: none"> ■ Religious creed ■ Ancestry ■ Marital status ■ Gender expression ■ Genetic information



CONNECTICUT STATE DEPARTMENT OF EDUCATION 10

10

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 is 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



CONNECTICUT STATE DEPARTMENT OF EDUCATION 11

11

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



CONNECTICUT STATE DEPARTMENT OF EDUCATION 12

12

Assurances



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



13

Assurances



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



14

Assurances



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



15

Assurances



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



16

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 (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity 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://www.fns.usda.gov/fns-instruction-113-1>



17

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



18

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



19

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



20

“And Justice for All” (AJFA) Poster



New Posters

All entities participating in Child Nutrition Programs must prominently display the USDA’s “And Justice for All” (AJFA) poster where participants and potential participants have access

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



21

“And Justice for All” (AJFA) Poster



- Updated USDA AJFA posters are in production and will be distributed to all SFAs when available
- AJFA posters dated September 2019 can be displayed until new posters are received



22

“And Justice for All” (AJFA) Poster



For school year 2023-24

- The AJFA poster must be prominently displayed in all facilities and locations that distribute Program benefits or administer services
- If the 2019 AJFA posters are not available for display, paper copies may be substituted as necessary if SFA has not received new posters (issued 2019)
- Poster and translations available at:

<https://www.fns.usda.gov/cr/and-justice-all-posters-guidance-and-translations>



23

“And Justice for All” (AJFA) Poster



For school year 2023-24

- Schools serving all meals in classroom can display posters in prominent locations throughout the school
 - bulletin board in the building entrance
 - school office
 - another area frequently visited by parents/guardians and children
- Schools may copy posters and put one in each classroom



24

USDA Nondiscrimination Statement



U.S. Department of Agriculture (USDA): 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, audiotape, 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) 632-6992, 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;
2. fax: (833) 256-1665 or (202) 690-7442; or
3. email: program.intake@usda.gov.

This institution is an equal opportunity provider.



25

Nondiscrimination Statement



The most current nondiscrimination statement (2022) must be on

- application forms
- notification letters
- state agency and SFA program webpages (English and Spanish)
- information developed for public information



26

Nondiscrimination Statement



Short statement can be used *only in special circumstances* (e.g., menu, one-page flier)

"This institution is an equal opportunity provider."



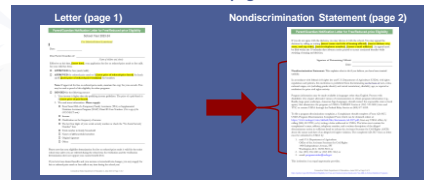
27

Nondiscrimination Statement



Vital documents about sensitive topics require *full* statement, even if one page

- Example: CSDE's one-page sample parent/guardian notification letter for free and reduced-price meals has full USDA nondiscrimination statement on page 2



https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/Forms/FreeRed/Parent_Letter_FAQ_Free_Reduced_Meals_NSLP_SBP.docx



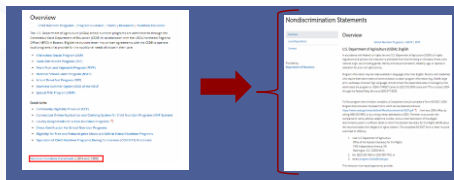
28

Nondiscrimination Statement



Webpages with information pertaining to Child Nutrition Programs must

- include full statement **OR**
- contain a direct link to full statement



29

Nondiscrimination Statement



Other language translations available on FNS Civil Rights webpage

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

American Sign Language PDF Word	Korean PDF Word
Arabic PDF Word	Laotian PDF Word
Armenian PDF Word	Polish PDF Word
Chinese, Simplified PDF Word	Portuguese PDF Word
Chinese, Traditional PDF Word	Russian PDF Word
Creole PDF Word	Serbo-Croatian PDF Word
English PDF Word	Somali PDF Word
Farsi PDF Word	Spanish PDF Word
Hindi PDF Word	Thai PDF Word
Hmong PDF Word	Urdu PDF Word
Rohingya PDF Word	Vietnamese PDF Word



30

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



31

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



32

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



33

Collection and Use of Data



Use of Data

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



34

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 CSDE-issued complaint procedure dated **February 2023**
 - The procedure as written cannot be edited

https://portal.ct.gov/-/media/SDE/Nutrition/CivilRights/Civil_Rights_SNP_Complaint_Procedures.docx



35

Complaint Procedures



- SFA will provide 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



36

Complaint Procedures



- All civil rights complaints shall be accepted and forwarded to the USDA Office of the Assistant Secretary for Civil Rights (OASCR)
 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



37

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



38

Complaint Procedures



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



39

Verbal Complaints



- If complainant will not put the complaint in writing, SFA must do so
- Use USDA Discrimination Complaint Form to ensure you capture all required information
 - English
<https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>
 - Spanish
<https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf>



40

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



41

Language Assistance



- Must take **reasonable steps** 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 individuals who are unable to read the written information provided



42

Language Assistance



What constitutes “reasonable steps” depends on four factors

1. 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



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



Language Assistance



USDA provides application forms in many foreign languages

<https://www.fns.usda.gov/cn/translated-applications>

Foreign language teachers and community organizations may have resources to help with translations (written and verbal)



Language Assistance



May use volunteers but make sure they are competent/qualified, understand interpreter ethics, and maintain participant confidentiality

- Children **cannot** be used as interpreters



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



Language Assistance



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 2019-20 (EdSight)
 1. Spanish
 2. Portuguese
 3. Arabic
 4. Creole-Haitian
 5. Mandarin
 6. Albanian



Language Assistance



LEP Taglines

Samples available

Sample Tagline Informing Individuals with Limited English Proficiency of Language Assistance Services	
English	ATTENTION: If you speak another language , language assistance services, free of charge, are available to you. Call 1-800-832-8283 (TTY: 1-800-832-8283).
Spanish	ATENCIÓN: si habla español, tiene a su disposición servicios gratuitos de asistencia lingüística. Llame al 1-800-832-8283 (TTY: 1-800-832-8283).
Arabic	ملاحظة: إذا كنت تتحدث اللغة العربية، فإن خدمات المساعدة اللغوية متوفرة لك مجاناً. اتصل بـ 1-800-832-8283 (TTY: 1-800-832-8283).
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 1-800-832-8283 (TTY: 1-800-832-8283)。
Portuguese	ATENÇÃO: Se fala português, encontram-se disponíveis serviços linguísticos, grátis. Ligue para 1-800-832-8283 (TTY: 1-800-832-8283).
Polish	UWAGA: Jeżeli mówisz po polsku, możesz skorzystać z bezpłatnej pomocy językowej. Zadzwoń pod numer 1-800-832-8283 (TTY: 1-800-832-8283).
Cerdeic	ATTENTION: Si w pale Kwerel Arames, gwa serwis ed pwa lang ki diaspwa gratis gwa on. Bala 1-800-832-8283 (TTY: 1-800-832-8283).

https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/Forms/FreeRed/Taglines_Providing_Meaningful_Access_CNPs.pdf

49

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

50

Language Assistance



Compare the two examples

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

Example 1

Example 2

51

Language Assistance



Answer: Example 2

Example 2 shows the language options recognizable to a LEP individual

Example 2

before it in a fair, timely, efficient and open manner.

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

52

Language Assistance



CSDE English Learners Website

- English Learners and Bilingual Education Statuses
- Connecticut English Language Proficiency (CELP) Standards
- English Learners Data Bulletin

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

53

Language Assistance



More information and resources available on the LEP Website

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

54

Disability Discrimination



- Sections 504 and 508 of the Rehabilitation Act of 1973 and 7CFR Part 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



55

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 an 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)



56

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 wheelchairs and with mobility disabilities



57

Disability Discrimination



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



58

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



59

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>



60

Special Diets Resources



- CSDE Presentation: Requirements for Meal Modifications in School Nutrition Programs
https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/SpecDiet/Meal_Modifications_SNP_Presentation.pdf
- CSDE Presentation: Managing Food Allergies in the Cafeteria: The Role of School Food Service Managers and Staff
https://portal.ct.gov/-/media/SDE/Nutrition/NSLP/SpecDiet/Managing_Food_Allergies_Cafeteria_SNP_Presentation.pdf



61

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)



62

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 assistance of 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://www.fns.usda.gov/fns-instruction-113-1>



63

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 differences
- Get help if threats or violence is possible



64

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



65

Required Training



- USDA requires that all staff who work with program applicants or participants receive 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



66

Required Training Topics



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



67

Required Training



- This PowerPoint presentation is available on the CSDE's Civil Rights website for SFAs to provide 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>



68

CSDE Contacts



CSDE School Nutrition Programs	
County	Consultant
<ul style="list-style-type: none"> ■ Fairfield County (includes Region 9) ■ Litchfield County (includes Regions 1, 6, 7, 12, and 14) 	Fionnuala Brown fionnuala.brown@ct.gov 860-807-2129
<ul style="list-style-type: none"> ■ Hartford County (includes Region 10) ■ Middlesex County (includes Regions 4, 13, and 17) 	Teri Dandeneau teri.dandeneau@ct.gov 860-807-2079
<ul style="list-style-type: none"> ■ New Haven County (includes Regions 5, 15, and 16) 	Greg King 860-713-6804 greg.king@ct.gov
<ul style="list-style-type: none"> ■ New London County ■ Tolland County (includes Regions 8 and 19) ■ Windham County (includes Region 11) 	Susan Alston susan.alston@ct.gov 860-807-2081



69

Questions



70