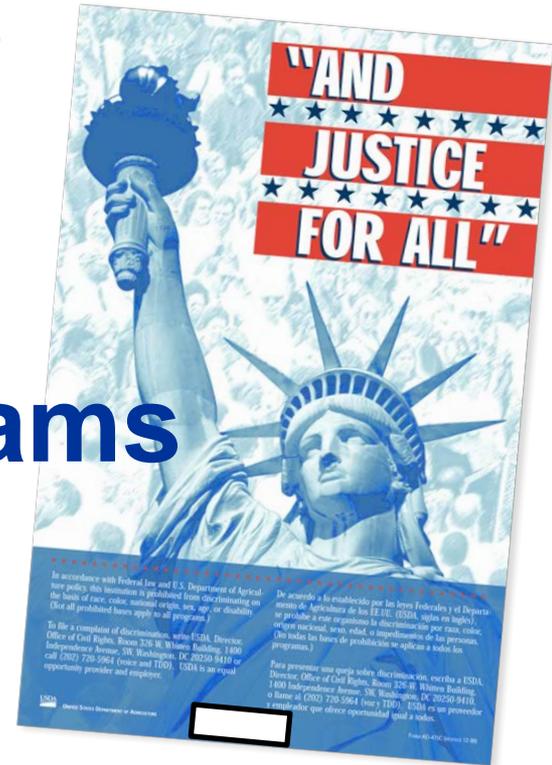


# USDA Civil Rights Requirements and Child Nutrition Programs



## Nebraska Department of Education Nutrition Services Revised 1/2015



# Goals of Civil Rights

- **Equal treatment for all applicants and beneficiaries**
- **Knowledge of rights and responsibilities**
- **Elimination of illegal barriers that prevent or deter people from receiving benefits**
- **Dignity and respect for all**





# Authority

**Programs receiving USDA funds must follow civil rights regulations and policy:**

- **Civil Rights Regulations are intended to assure benefits of Child Nutrition Programs are made available to all eligible people in a non-discriminatory manner.**
- **All sponsors receiving Federal \$\$ must implement Civil Rights requirements to be eligible for the program.**





# Authority

**Programs receiving USDA funds must follow civil rights regulations and policy:**

- **Food and Nutrition Service (FNS) 113-1 regulations cover these programs:**
  - **National School Lunch, Breakfast and Special Milk Programs**
  - **Summer Food Program**
  - **Food Distribution Program**
  - **Child and Adult Care Food Program**

**[www.fns.usda.gov/cr/crregulation.htm](http://www.fns.usda.gov/cr/crregulation.htm)**





# Civil Rights Legislation

**Title VI of the Civil Rights Act of 1964:**  
prohibits discrimination based on race,  
color, and national origin in programs and  
activities receiving Federal financial  
assistance.

***The Americans with Disabilities Act of 1990:***  
prohibits discrimination on the basis of  
disability.





# Civil Rights Legislation

**Title IX of the Education Amendments of 1972:** prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance

**Section 504 of the Rehabilitation Act of 1973:** prohibits discrimination based on disability





# Civil Rights Legislation

**Age Discrimination Act of 1975:** prohibits discrimination based on age in programs or activities receiving Federal financial assistance.

**The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA):** Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs.





# Civil Rights Legislation

## **Civil Rights Restoration Act of 1987:**

**clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes to ensure nondiscrimination in all programs and activities of a recipient, whether those programs and activities are federally funded or not.**



# Civil Rights Legislation

## **USDA Departmental Regulation 4330-2:**

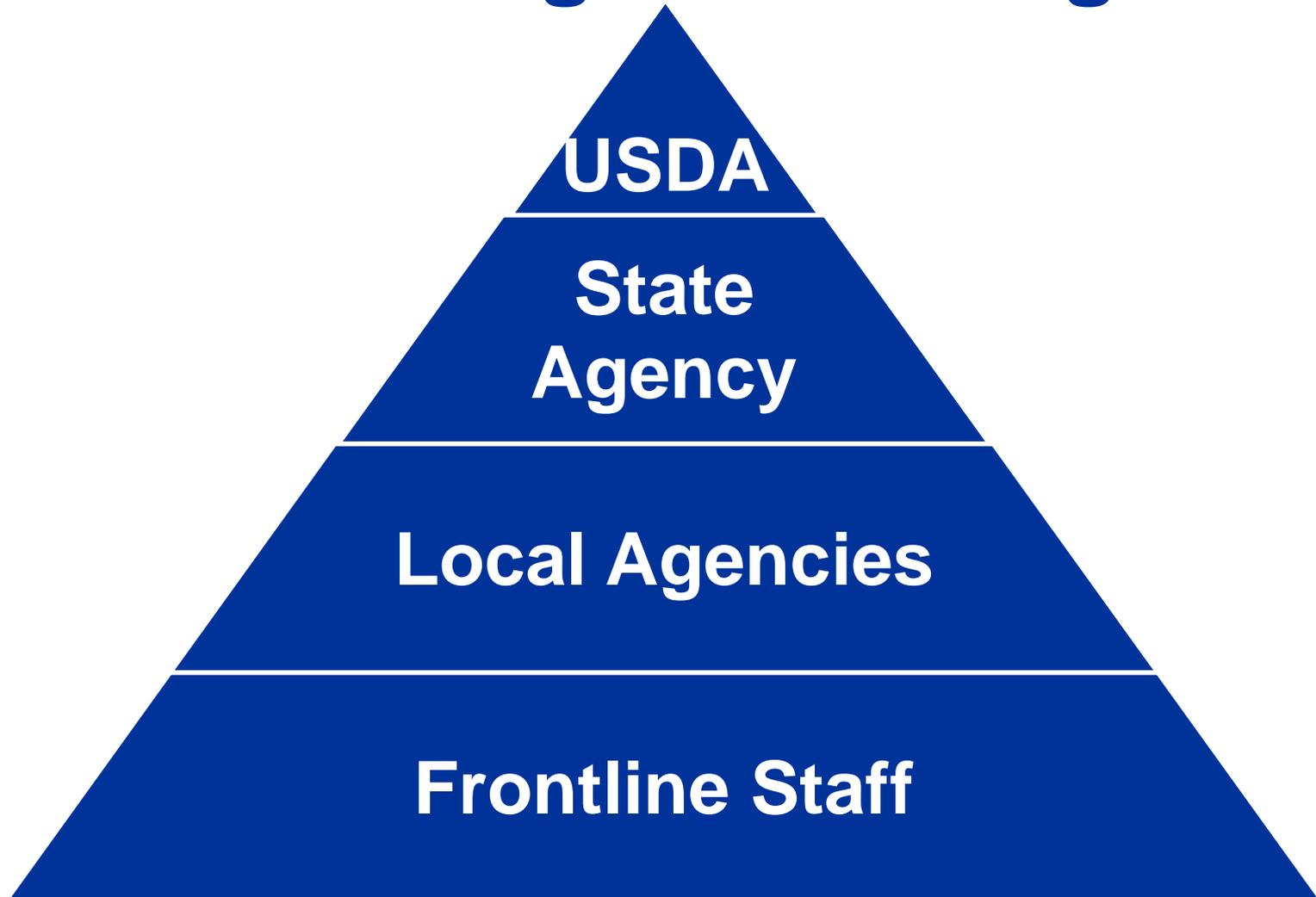
**ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the USDA.**

**USDA Regulation 7 CFR Part 16, ensures equal opportunity for religious organizations, to compete on an equal footing with other organizations for USDA assistance.**





# Civil Rights Training



# Protected Classes

- Race
- Color
- National origin
- Sex
- Age
- Disability





# **SFA Responsibilities for Civil Rights Training**

- #1 Collection and Use of Data**
- #2 Effective Public Notification Systems**
- #3 Complaint Procedures**
- #4 Conflict Resolution**





# Civil Rights SFA Responsibilities

**#5 Compliance Review Techniques**

**#6 Resolution of Noncompliance**

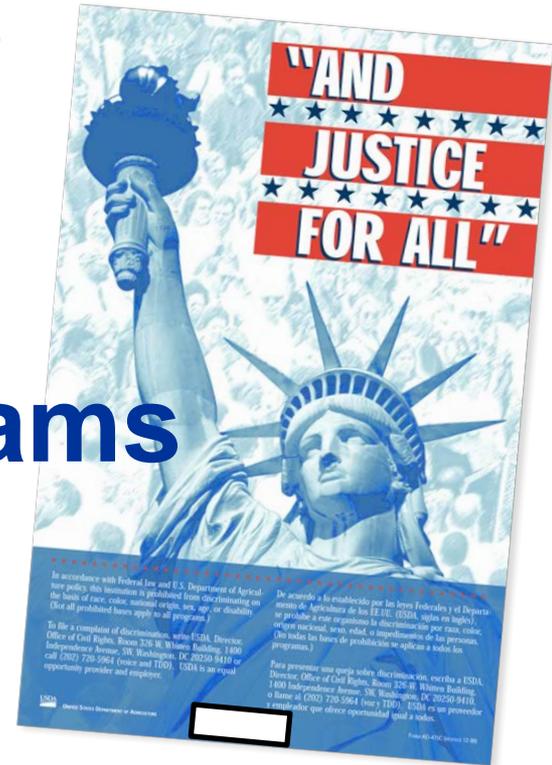
**#7 Requirements for Reasonable  
Accommodations of Persons with  
Disabilities**

**#8 Requirement for Language Assistance**

**#9 Customer Service**



# USDA Civil Rights Requirements and Child Nutrition Programs



## #1 Collection and Use of Data



# Obtaining Ethnic/Racial Data

- **Voluntary self-identification or self-reporting (*preferred method*)**

**Income application: Household applications that are completed each year and submitted to the SFA have a section for the household to identify their ethnic and racial data**



# Obtaining ethnic/racial data

- **If a household chooses not to provide ethnic/racial information, you may use one of the following 2 methods:**

- 1) Visual identification**
- 2) Personal knowledge, records or other documentation**



**your district possesses that identifies household ethnic/racial data.**



## 2 Ethnic Categories

- **Hispanic or Latino**  
persons of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin regardless of race.
- **Not Hispanic or Latino**



# 5 Racial Categories

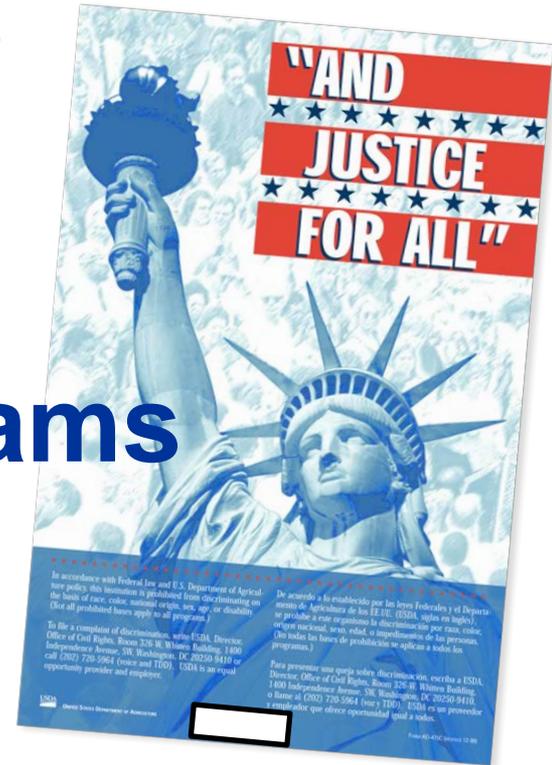
- **American Indian or Alaskan Native**
- **Asian**
- **Black or African American**
- **Native Hawaiian or Other Pacific Islander**
- **White**



<http://www.fns.usda.gov/cr/crregulation.htm>

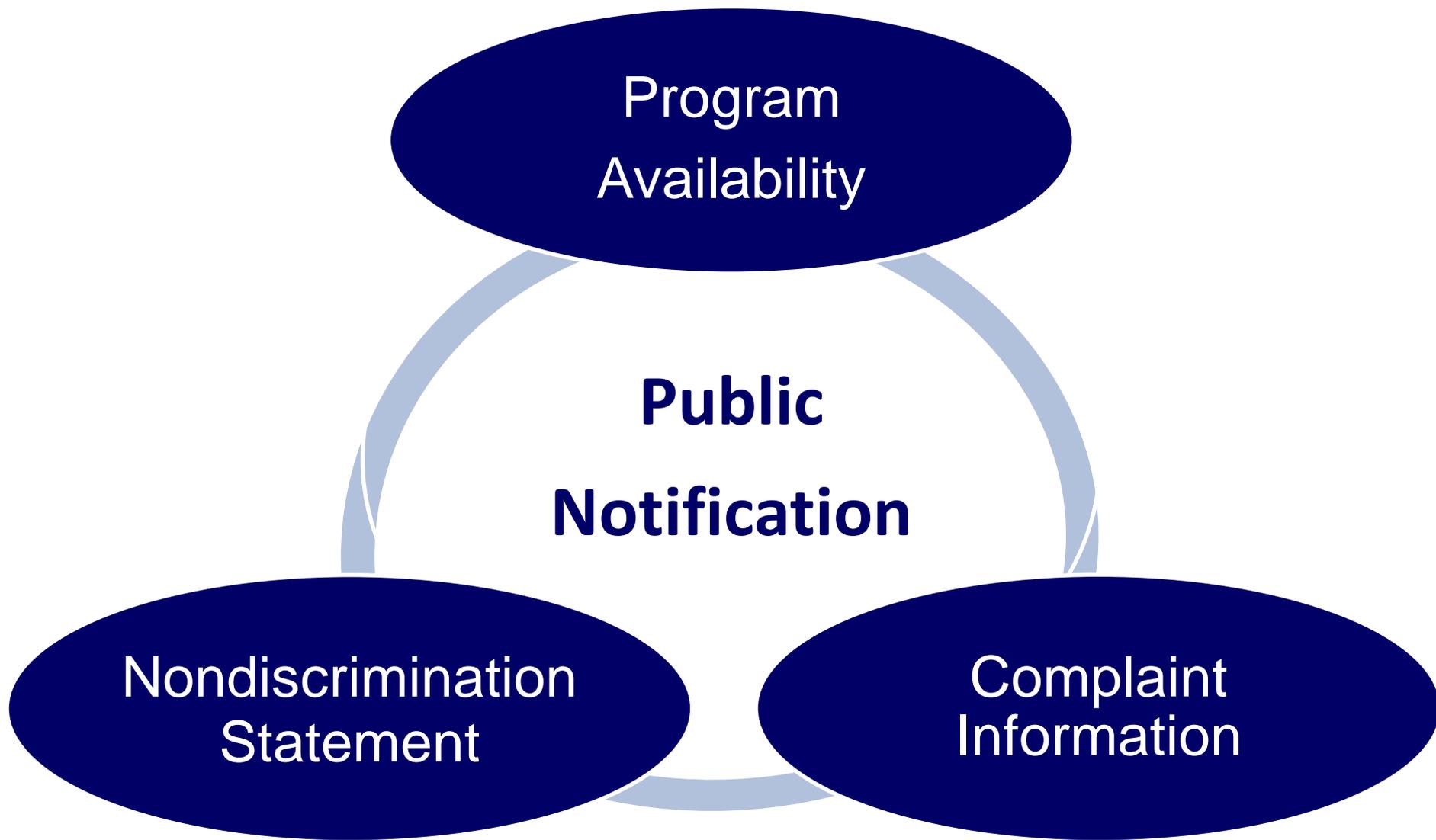


# USDA Civil Rights Requirements and Child Nutrition Programs



## #2 Effective Public Notification Systems





# Methods of Public Notification



- **Public Release**  
**(required)**
- **Post “And Justice for All” poster**  
**(required)**
- **Other methods of public notification**  
**(optional)**





# Public Release

**Must include information on:**

- **Eligibility**
- **Benefits & Services**  
(i.e. free or reduced price meals)
- **Program availability**
- **Applicant rights and responsibilities**



# Public Release

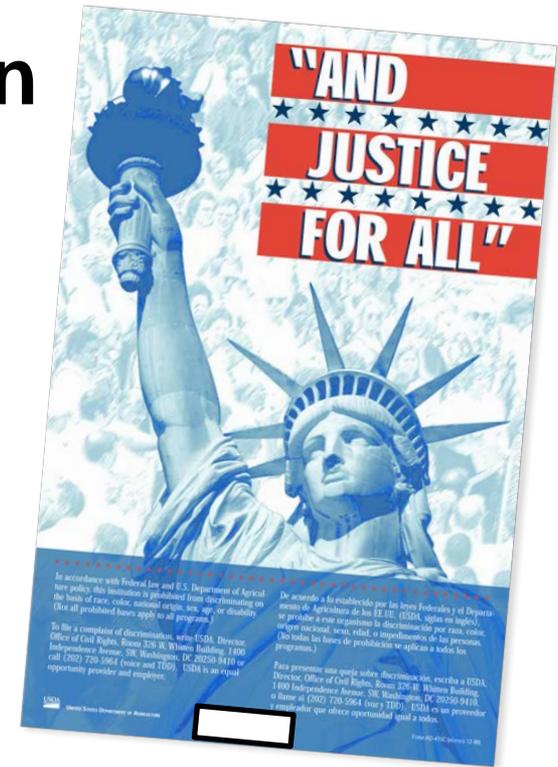
**Must include information on, cont'd:**

- **Procedures for filing a complaint**
- **Non-discrimination policies**
- **Any programmatic changes (i.e. changing location of a meal site)**



# “And Justice For All” Poster

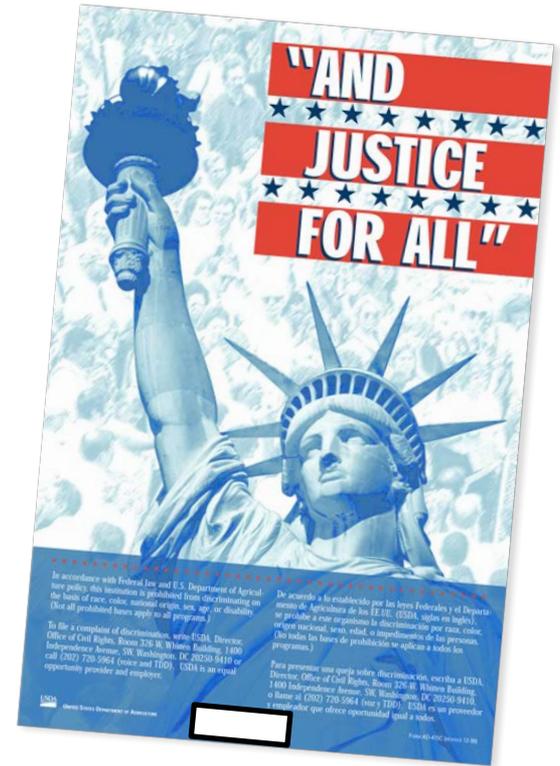
All programs participating in Child Nutrition Programs must display the USDA’s non-discrimination poster in a prominent area where participants and potential participants have access



# “And Justice For All” Poster

Must be posted at every food service/preparation site

- In each cafeteria where meals are served
- Other possible locations:
  - In offices where free & reduced determinations are made
  - Entrance to facility
- Must be 11” x 17” format
- ***Posters may be obtained from NDE NS***





# **Non-Discrimination Statement Usage Information**

- **The full statement is the preferred statement on all documents any time the USDA food programs are referred to in brochures, bulletins, leaflets, and letters**
- **The full statement must be used in documents that are more than 1 page**





# Examples which require the Nondiscrimination Statement:

- F/R Meal Appls.
- Parent/Student Handbooks
- Employee Handbooks
- Newsletters
- Brochures
- Print or broadcast advertisements
- Flyers
- Websites
- Menus – *not required*





# Nondiscrimination Statement Long Version

**This explains what to do if you believe you have been treated unfairly.**

**“In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.**

**To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.”**





# **Nondiscrimination Statement Short Version**

**If the material or document is too small to permit the full statement (previous slide) to be included, the material **MUST**, at a minimum, include:**

**USDA is an equal opportunity provider and employer.**



# Nondiscrimination in Images



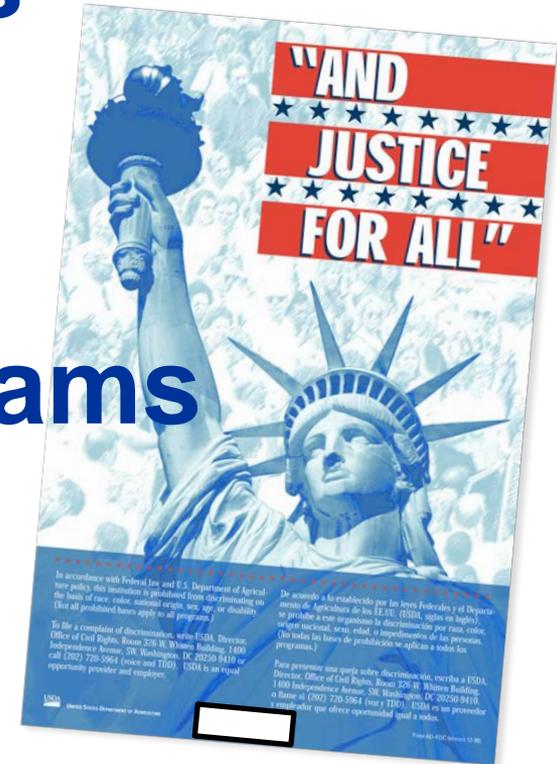
**When using graphics / images,  
reflect diversity and inclusion.**

<http://www.ars.usda.gov/is/graphics/photos/>





# USDA Civil Rights Requirements and Child Nutrition Programs



- #3 Complaint Procedures
- #4 Conflict Resolution





# Complaint Procedure Plan

**SFAs and Institutions are required to **develop** and **implement** a written procedure to handle any discrimination complaint that may be received.**





# Civil Rights Complaints

**Allege that  
discrimination  
has occurred in  
violation of one  
of the protected  
classes →→→→→**

**Race  
Color  
National origin  
Sex  
Age  
Disability**





# Discrimination is ...when an individual or group of individuals are:

- **Delayed benefits or services**
- **Denied benefits or services**
- **Treated Differently than others  
to their disadvantage**
- **Given Disparate Treatment**





# Where Do They Send the Complaint?

**Complainants may choose to:**

- **Contact USDA directly or**
- **Contact NDE NS directly, or**
- **Notify the SFA of their complaint**

**SFAs and Institutions must forward all  
discrimination complaints received  
regarding Child Nutrition Programs to  
NDE NS within  
5 working days**





# Procedures for Filing a Complaint

## 1. Right To File A Complaint

Any person alleging discrimination based on race, color, national origin, sex, age, or disability has a right to file a complaint within 180 days of the date of the alleged discriminatory action.





# Procedures for Filing a Complaint

## 2. Verbal Complaints

**A complaint does not need to be written by the person alleging that discrimination has occurred.**

**If the complaint is verbal, the SFA needs to record the complaint for the person.**





# Procedures for Filing a Complaint

## 3. Acceptance

**It is the SFAs and Institutions responsibility to accept the complaint and to be able to do so requires that you collect certain information.**

**The complaint is then forwarded to the appropriate officials for processing.**





# How to Handle a Complaint

- **Use the Complaint Form**
- **Enter the Complaint on the Log**
- **Refer the complaint to the SFA's and Institution's civil rights contact person**
- **Report the complaint to NDE within **5 working days**.**





# Conflict Resolution

**The USDA recommends using an Alternative Dispute Resolution (ADR) program**

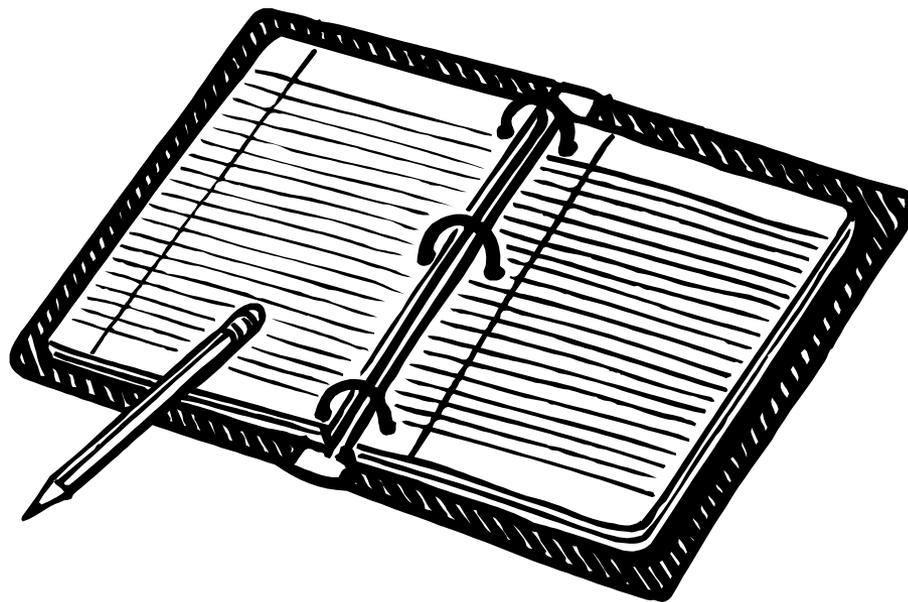
**ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation.**

**[www.fas.usda.gov/Admin/civilrights/conflictres.asp](http://www.fas.usda.gov/Admin/civilrights/conflictres.asp)**



# Civil Rights Complaint Log

Log must be dated and kept for **3 years + current year**, even if no complaints have been received





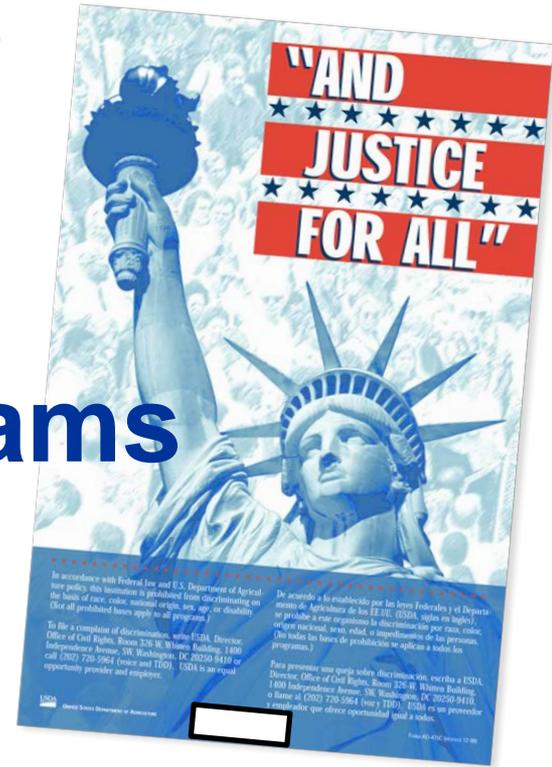
# Civil Rights (CR) Binder

- **Separate sections for**
  - 1) **SFA's and Institution's CR complaint procedure,**
  - 2) **CR complaint Log,**
  - 3) **Copies of CR complaint forms**
- **An information sheet that identifies the Civil Rights coordinator for the SFA**





# USDA Civil Rights Requirements and Child Nutrition Programs



**#5 Compliance Review**

**#6 Resolution of Noncompliance**





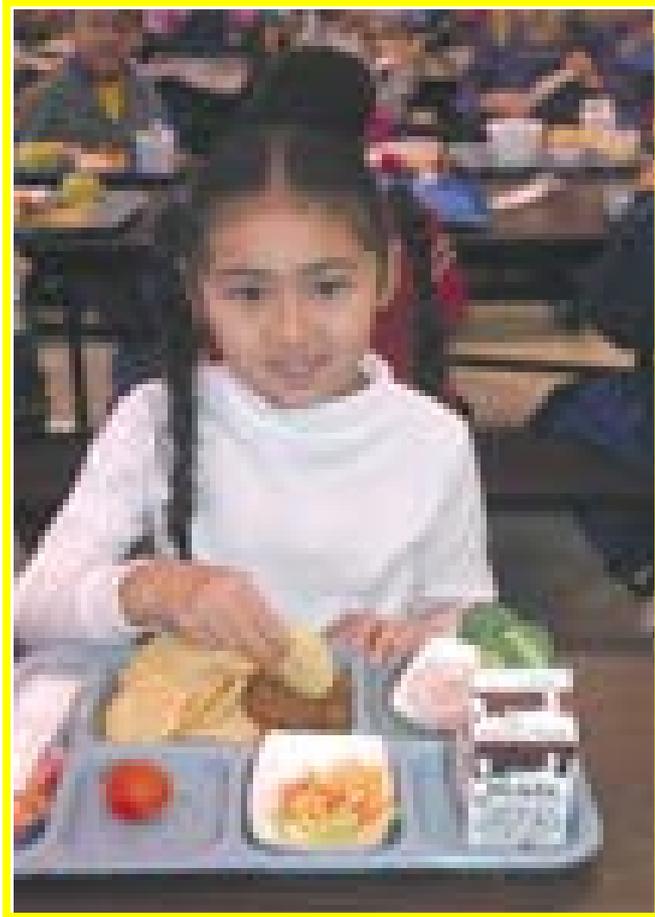
# Information for SFAs and Institutions

## Nutrition Services will ask:

- **Have you ever received any written or verbal complaints alleging discrimination?**
- **If YES, have these complaints been reported to the State Agency?**
- **What is your policy to handle a complaint of discrimination?**



# Information for SFAs and Institutions



**No separation based by race, color, sex, disability, age or national origin in:**

- **Meal time**
- **Seating arrangements**
- **Serving lines**
- **Eating areas**





# Information for SFAs and Institutions

- **Foreign language translations are available**
- **USDA poster displayed in prominent place**
- **Correct nondiscrimination statement on program materials**
- **Incorrectly denied F/R applications are not disproportionately composed of minority applications**
- **Disabled students are provided program benefits**



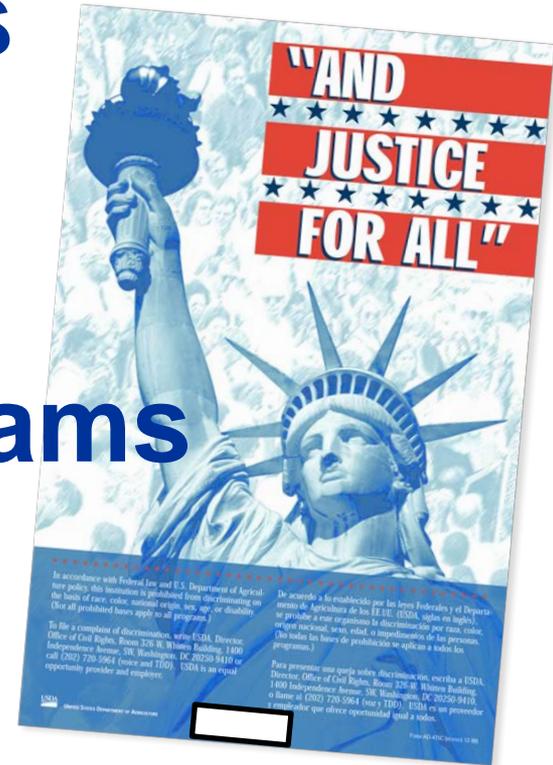


# Resolution of Noncompliance

- **Civil Rights findings during the Review require a Corrective Action Plan that ensures compliance with the FNS 113-1 Instruction**
- **An acceptable corrective action plan must be submitted**
- **Failure to respond or correct the finding may result in suspension or termination of financial assistance**



# USDA Civil Rights Requirements and Child Nutrition Programs

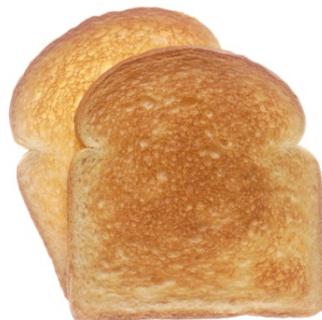
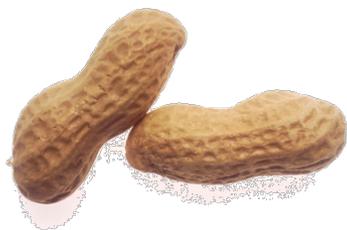


## #7 Reasonable Accommodations of Persons with Disabilities





# Accommodating Children With Special Dietary Needs



# Federal Regulations

- **The Rehabilitation Act – 1973 (Section 504) and The Americans with Disabilities Act – 1990**
- **Individuals with Disabilities Education Act (IDEA)**
- **USDA Regulations**
  - 7 CFR 15b
  - 7 CFR 210 and 220





# Students With Disabilities

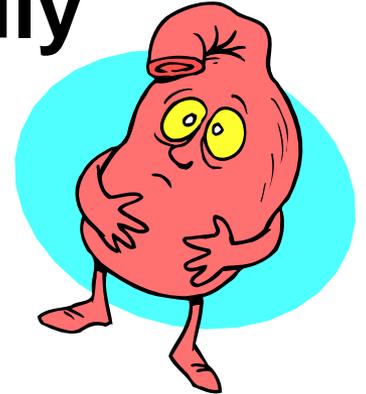
- **Schools must make food substitutions or modifications in school meals for children whose disabilities restrict their diets.**





# ADA Amendment Act of 2008

- Expanded to include “Major Bodily Functions”:
  - Immune system
  - Normal cell growth
  - Digestive, bowel, and bladder functions
  - Neurological, brain, respiratory functions
  - Circulatory, cardiovascular, endocrine, and reproductive functions



# ADA Amendment Act of 2008

- **What does this mean to schools?**
  - **More children identified with food-related disability**
  - **More required meal accommodations**



# Individualized Education Program (IEP)

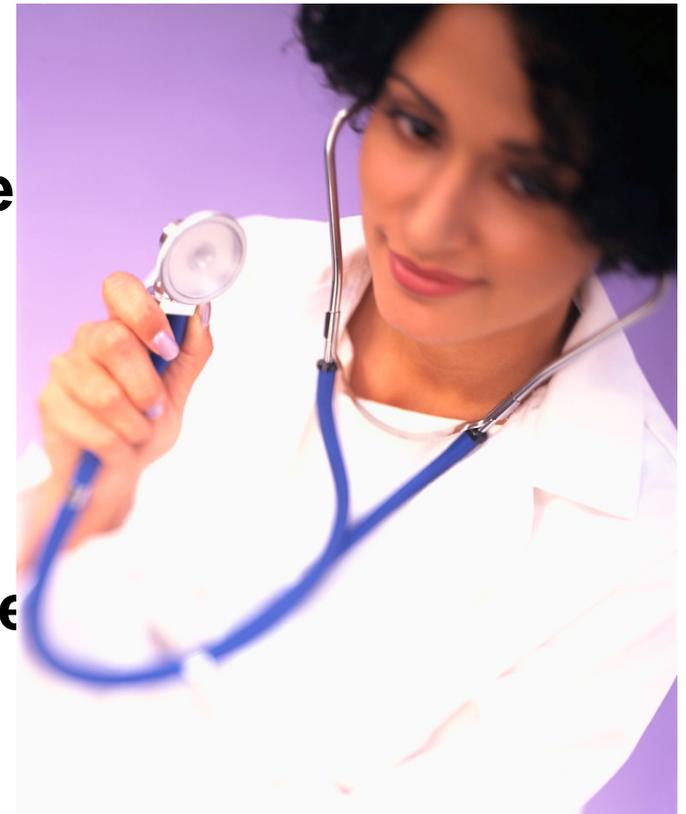
- **An IEP outlines the child's program of Special Education and Related/Support Services**
  - School meals maybe considered a related/support service
- **An IEP may include:**
  - A written statement that addresses a child's nutritional needs OR
  - A health care plan developed by the school nurse which identifies the child's special dietary needs.



# Medical Statement for a Child *With* a Disability

The statement must include:

- The child's disability;
- How the disability restricts the
- Major life activity affected;
- Foods to be omitted;
- Foods to be substituted; and
- Licensed physician's signature



# NDE's Preferred Medical Statement

- To obtain a copy of the medical statement go to:
- <http://www.education.ne.gov/ns/forms/nslpforms/SpecialDiet.html>



# Additional Requirements for a Child *With a Disability*

- **Food service is not required to provide a meal that is not normally offered (i.e., breakfast) – unless required in a student’s IEP**
- **Costs can not be charged to par**
- **Include meeting special dietary needs in contracts with Vendors and Food Service Management Companies**





# Accommodating Children *With a Disability*

**If supported by a Medical Statement signed by a Licensed Physician, special diets are reimbursable:**

- **Even if the meal does not meet USDA meal pattern requirements**
- **When both the school and household agree to supply different food components of the meal**
  - **and this plan is documented on the Medical Statement and approved by the signing physician**



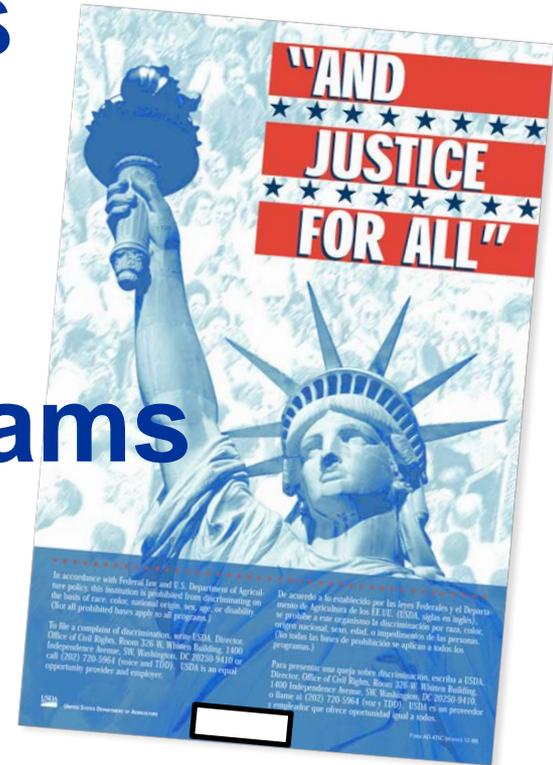


# A Child *Without* a Disability

- May request a special diet or accommodation.
- Schools are encouraged, but are **NOT REQUIRED** to make food substitutions
- Food allergies or intolerances
  - **NOT** generally considered a disability **UNLESS** the food causes a life-threatening reaction.
- In many cases, food allergies can be managed using “Offer versus Serve” or by providing additional food selections.



# USDA Civil Rights Requirements and Child Nutrition Programs



## #8 Language Assistance





# Limited English Proficiency (LEP)

- **Individuals who do not speak English as their primary language and have limited ability to read, speak, write, or understand English.**
- **Recipients of Federal financial assistance have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by persons with LEP.**





# Limited English Proficiency (LEP)

- **Children should not be used as interpreters.**
- **Volunteers may be used, but make sure they understand interpreter ethics – particularly confidentiality!**



# LEP & School Districts

Must make materials available in the appropriate language

Bayramınız  
Kutlu Olsun

ขอบคุณ

شكراً

[www.fns.usda.gov/cnd/frp/frp.process.htm](http://www.fns.usda.gov/cnd/frp/frp.process.htm)





# LEP & School Districts

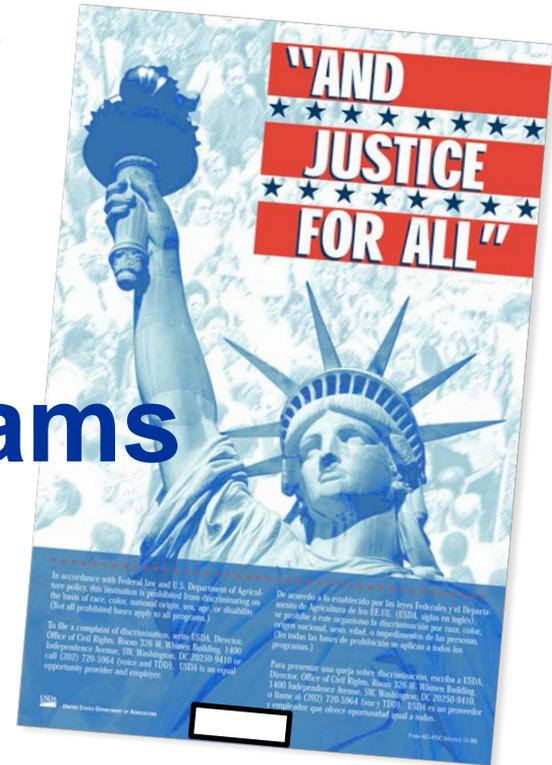
**A shortage of resources does not eliminate the translation requirement**

## **Suggestions:**

- Share resources to save money**
- Use interpreter from another area**
- Train bilingual staff to be interpreters**
- Language line phone services**
- Grassroots organizations**



# USDA Civil Rights Requirements and Child Nutrition Programs



## #9 Customer Service



# Customer Service

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



# Customer Service

**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**



# Ask yourself each time you interact with participants...

- **How would I want to be addressed?**
- **Am I treating this person in the same manner I treat others?**
- **Have I informed this person exactly what information I need to make a determination on the application?**



# **Ask yourself each time you interact with participants...**

- **Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions?**
- **Have I provided this person with needed information to make necessary decisions?**



# Summary

## Civil Rights “Must Do List”

- ☑ **Prominently display the *And Justice for All* poster**
- ☑ **Non-discrimination statement must be on all printed materials available to the public which mention USDA and/or Child Nutrition Program meals and snacks**
- ☑ **Must offer meals to all students in the school**





# Summary

## Civil Rights “Must Do List”

- Offer any Child Nutrition Program in a Non-Discriminatory manner
- Train staff annually on Civil Rights
- Develop & fully implement your Civil Rights Complaint Procedure
- Make available to all staff Civil Rights Complaint forms, Log and Complaint Procedure



# Contact Us:

**Nutrition Services**

**402-471-2488**

**or**

**800-731-2233**

**(outside Lincoln)**

