



USDA Civil Rights and Requirements

Nebraska Department of Education
Nutrition Services
Revised 6/2020



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



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.

Title VII: Prevents employment discrimination where the employer is involved in interstate commerce.



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.

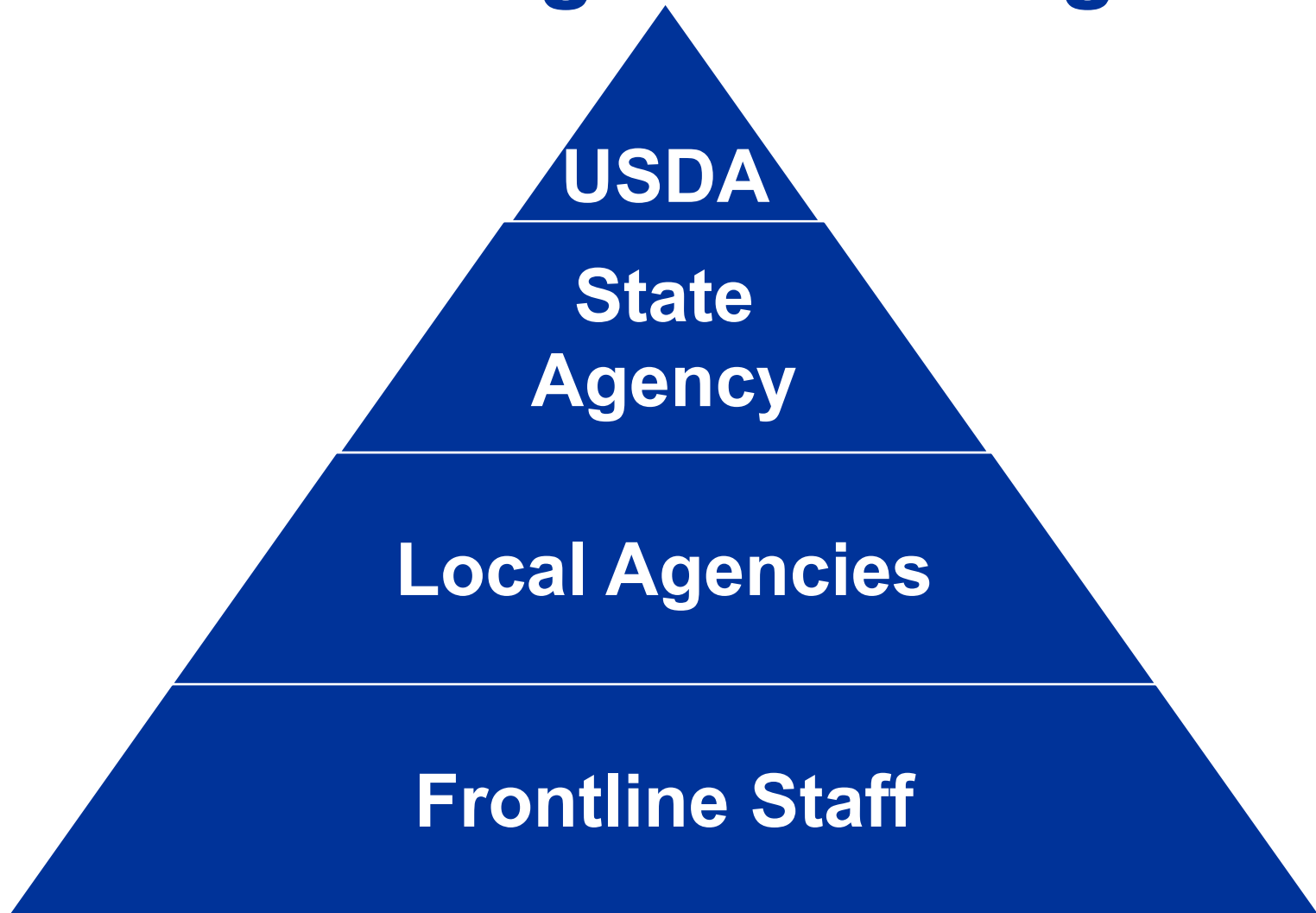
Civil Rights Legislation

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.



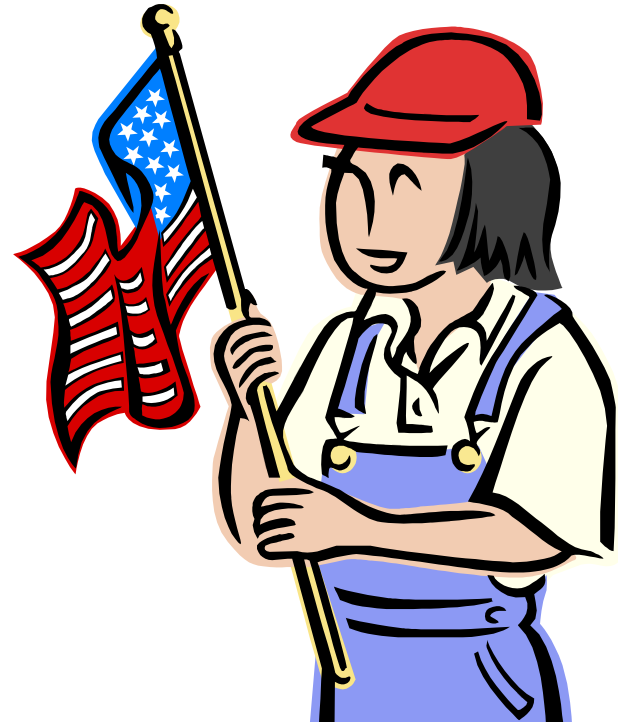
Civil Rights Training





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

1 Collection and Use of Data



In accordance with Federal 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, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and 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.

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

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

email:
program.intake@usda.gov.

This institution is an equal opportunity provider.

Conforme a la ley federal y las políticas y regulaciones de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta institución tiene prohibido discriminar por motivos de raza, color, origen nacional, sexo, edad, discapacidad, vergüenza o represalia por actividades realizadas en el pasado relacionadas con los derechos civiles. (No todos los principios de prohibición aplican a todos los programas.)

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Esta institución ofrece igualdad de oportunidades.

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**



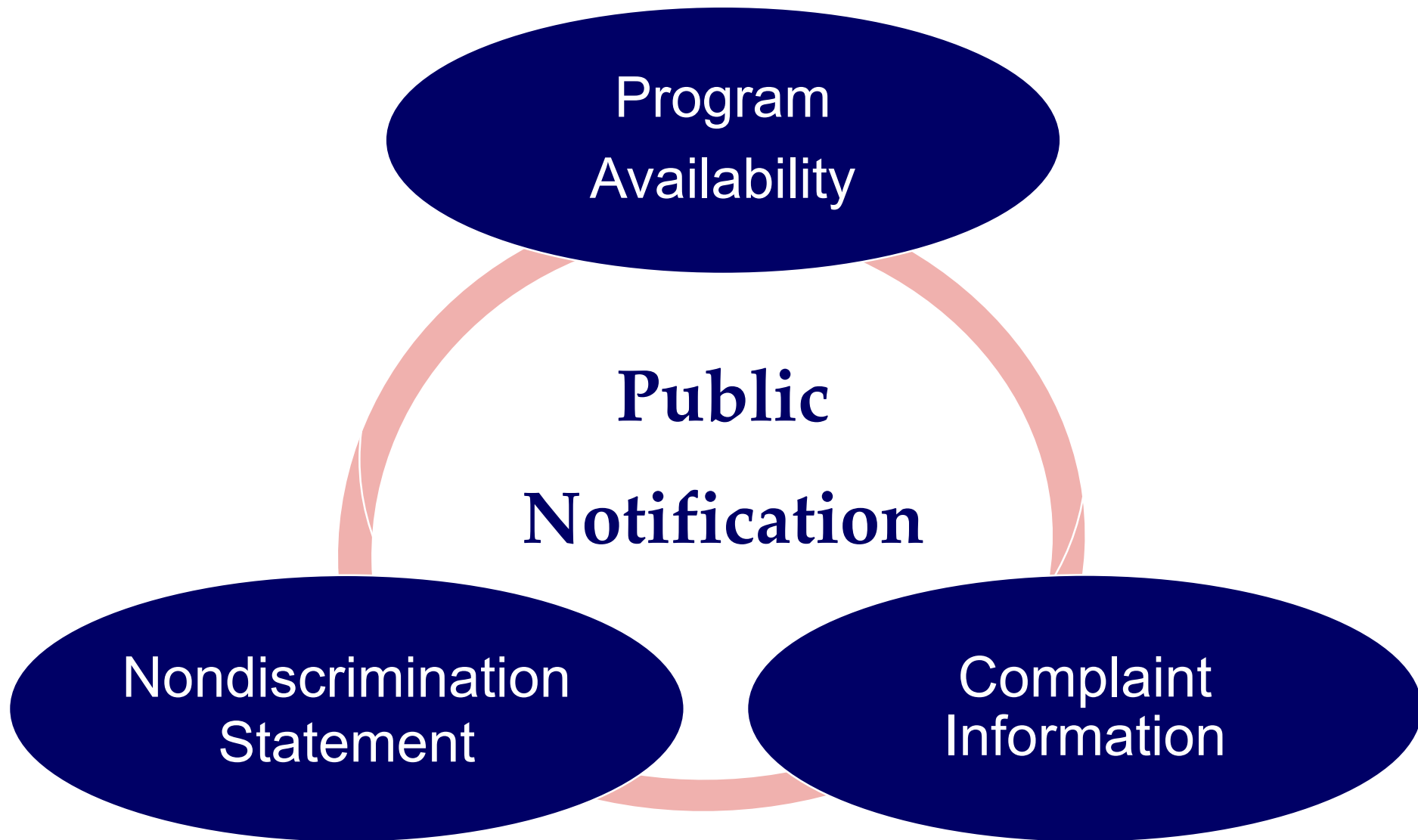
5 Racial Categories

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



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







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.



USDA United States Department of Agriculture

AND JUSTICE FOR ALL

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Form AD-3027-A - And Justice for All Poster (Revised September 2019)

Mostrar completado: el Formulario AD-3027-A (Revisado Septiembre 2019)

“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

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, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individual 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:

http://www.ascr.usda.gov/complaint_filing_cust.html 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:

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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:**

This institution 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>
/



3 Compliant Procedures 4 Conflict Resolution



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Form 05-0508-2002-508-11-28-17 Revised September 2019

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Alta compliance info al Formulario AD-3027 / Revisado Septiembre 2019



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

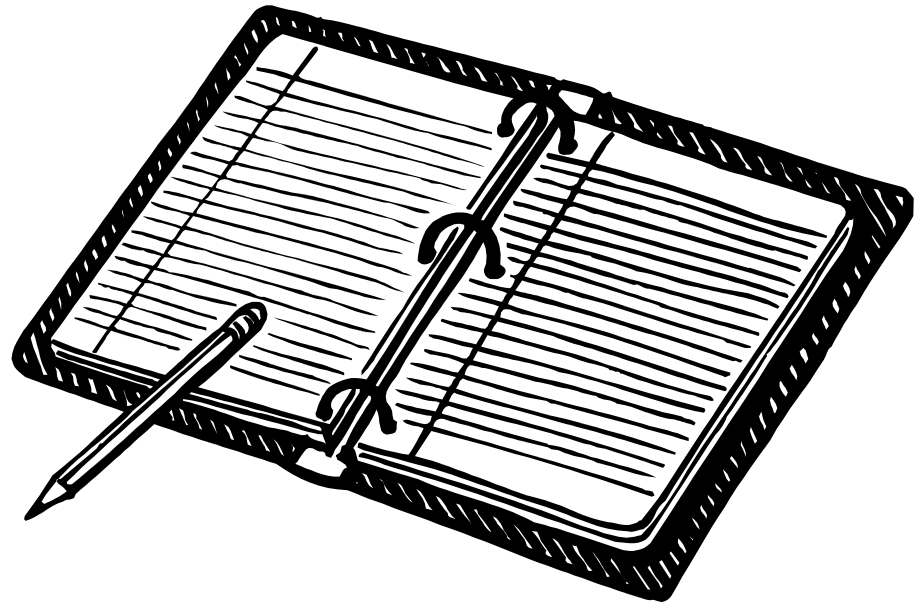
ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation.

www.fas.usda.gov/Admin/civilrights/conflictres.asp



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



5 Compliance Review

6 Resolution of Noncompliance



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Form 05-015-3-1-202012 Feder/Revised September 2019

Alta compliance/Info al Formulario AD-3027 /Revised September 2019



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



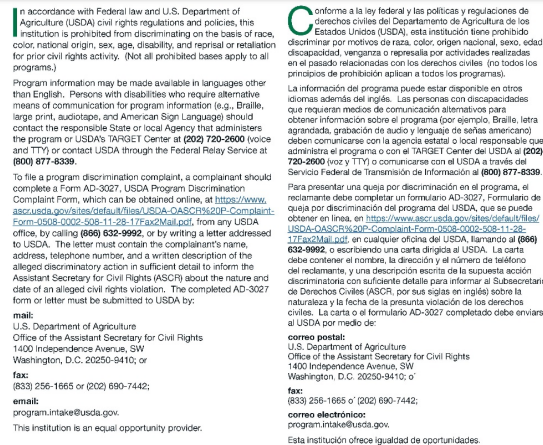
Information for SFAs and Institutions

- 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



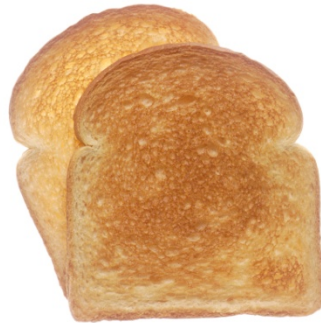
Resolution of Noncompliance

- **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





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.



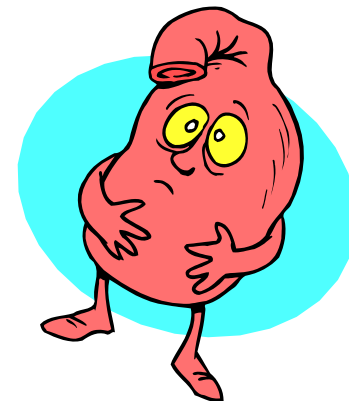
Definition of a Disability

Anyone who has a physical or mental impairment, which **substantially limits** one or more of the **major life activities**



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 diet;
- 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/nsipforms/SpecialDiet.html>





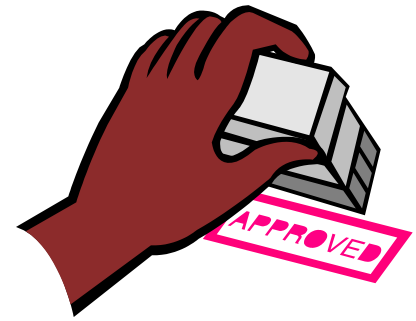
Additional Requirements for a Child *With a Disability*

- 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 parents
- 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.



8 Language Assistance



In accordance with Federal 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, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and 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.asec.usda.gov/sites/default/files/USDA-OASCR%20P-Complaint-Form-0508-2002-2008-11-26-17Fac2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

mail:
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
fax:
(833) 256-1665 or (202) 690-7442;
email:
program.intake@usda.gov.
This institution is an equal opportunity provider.

Form 8475-A - Revised Poster/Notice September 2019

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La información del programa puede estar disponible en otros idiomas además del inglés. Las personas con discapacidades que requieran medios de comunicación alternativos para obtener información sobre el programa (por ejemplo, Braille, letra agrandada, grabación de audio y lenguaje de señas americano) deben comunicarse con la agencia estatal o local responsable que administra el programa o con el TARGET Center del USDA al (202) 720-2600 (voz y TTY) o comunicarse con el USDA a través del Servicio Federal de Transmisión de Información al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe completar un formulario AD-3027, Formulario de queja por discriminación del programa del USDA, que se puede obtener en línea, en <https://www.asec.usda.gov/sites/default/files/USDA-OASCR%20P-Complaint-Form-0508-2002-2008-11-26-17Fac2Mail.pdf>, en cualquier oficina del USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida al USDA. La carta debe contener el nombre, la dirección y el número de teléfono del reclamante, y una descripción escrita de la supuesta acción discriminatoria con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR, por sus siglas en inglés) sobre la naturaleza y la fecha de la presunta violación de los derechos civiles. La carta o el formulario AD-3027 completado debe enviarse al USDA por medio de:

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Esta institución ofrece igualdad de oportunidades.

Formulario 8475-A - Revisado Poster/Noticia Septiembre 2019



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

ขอขอบคุณ

شكراً

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



9 Customer Service



United States Department of Agriculture



AND JUSTICE FOR ALL



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Form 50-475-A - Revised Poster/Noticed September 2019

Alfeno complementos de Formularios 50-475-A / Revisado Septiembre 2019

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)

