



CONNECTICUT STATE DEPARTMENT OF EDUCATION

Civil Rights

*Your Responsibilities in the
School Nutrition Programs*



Fall 2016

Topics



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



Civil Rights Definition



The non-political rights of a citizen

- The rights of personal liberty guaranteed to United States (U.S.) citizens by the 13th and 14th Amendments to the U.S. Constitution and by acts of Congress



Civil Rights Legislation



- Title VI – Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act and ADAAA – *Disability*
- Age Discrimination Act of 1975 – *Age*
- Civil Rights Restoration Act of 1987 – *Race, Color and National Origin*



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

www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/fnsinstructions/113-1.pdf



USDA Civil Rights Policy



Food and Nutrition Service (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)

www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/fnsinstructions/113-1.pdf



Purposes 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**



Civil Rights Overview



USDA Protected Classes

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

CSDE Protected Classes

All federal, plus

- Religious creed
- Ancestry
- Marital status
- Sexual orientation
- Gender identity or expression
- Genetic information



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**



Assurances



Programs need a written assurance to comply with Civil Rights laws and nondiscrimination regulations

- **Program application/renewal**
- **Contracts with distributors, e.g., Sysco, Guida's**
- **Contracts with food service management, e.g., Chartwells, Sodexo, Whitson's**

Prescribed language must be included in all contracts, Memorandum of Understandings (MOU), Memorandum of Agreements (MOA)



Civil Rights Assurance Statement



NSLP, FFVP, ASP, SBP, SMP

"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 SO.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

www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/fnsinstructions/113-1.pdf



Public Notification



School food authorities (SFAs) must notify the public of their participation in USDA school nutrition programs

- **Program Availability**
- **Complaint Information**
- **USDA Nondiscrimination Statement**
 - Long and short
 - Exact wording



Public Notification Methods



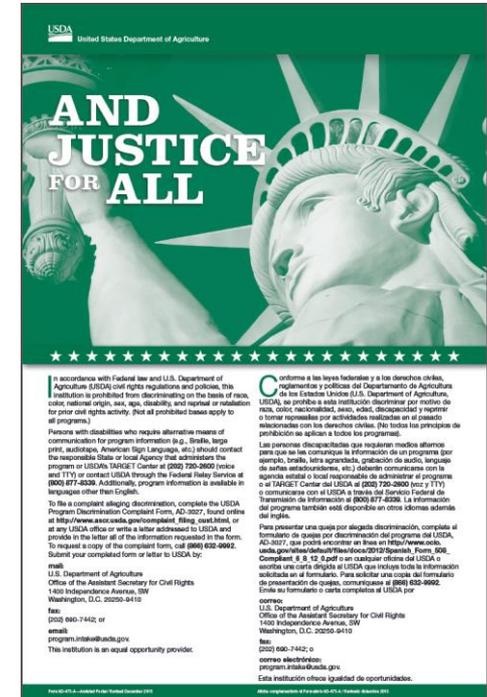
- **Inform community of program and details**
 - Internet, newspaper articles, radio and TV announcements, letters, bulletins, etc.
 - Eligibility, benefits, services, facility location, hours and delivery points
 - Ensure underserved populations get message
 - Include nondiscrimination statement
- **Use other languages**



“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



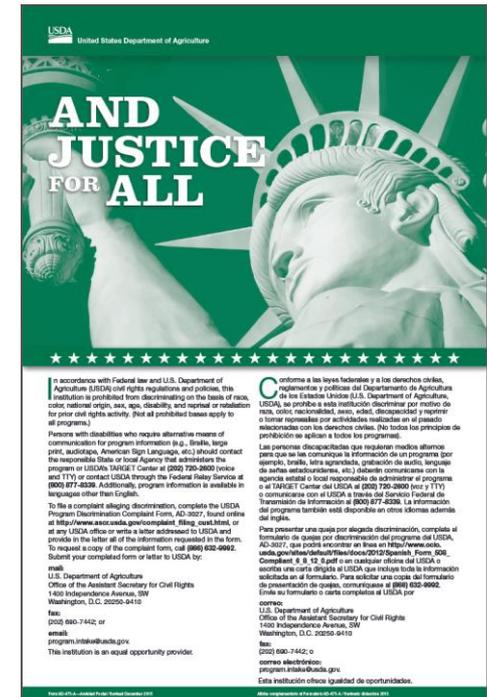
www.fns.usda.gov/sites/default/files/cr/Justice-poster-general.pdf



“And Justice for All” Poster



- If the classroom is the only location where children receive meals, the “*And Justice for All Poster*” must be in each classroom



Public Notification Methods



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



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: 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:

- (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: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.



Nondiscrimination Statement



- Use short statement if there is not enough room for full wording, e.g., one page documents
 - *“This institution is an equal opportunity provider.”*
- Use must be approved by FNS Regional Civil Rights Director



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 full USDA nondiscrimination statement on page 2

Letter (page 1)

Nondiscrimination Statement (page 2)



www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/forms/parentnotif.pdf



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



Collection and Use of Data



- Helps determine if disparities exist between the potentially eligible and participating population
- Outreach efforts can be targeted



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 are responsible for ensuring program access for LEP individuals**



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



Language Assistance



- **What constitutes “reasonable steps” depends on the**
 - **number of LEP persons served**
 - **frequency LEP persons come in contact with services**
 - **nature and importance of the services**
 - **resources available to recipients**
 - **costs**



Language Assistance



- **USDA provides application forms in many foreign languages**

www.fns.usda.gov/school-meals/translated-applications

- **Other program materials may need translation**
- **Children should not be used as interpreters**



Language Assistance



- Foreign language teachers and community organizations may have resources to help with translations (written and verbal)
- Volunteers may be used, but make sure they are competent/qualified and understand interpreter ethics (confidentiality)



Language Assistance



- More information and resources available on the LEP Web site

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



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



CSDE English Learners Web site

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

www.sde.ct.gov/sde/cwp/view.asp?a=2618&q=320848



Accommodations



“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 American Disabilities Act Amendments Act of 2008 (ADAAA), P.L. 110-325



Accommodations



**“Physical or mental impairment”
includes many diseases and conditions**

- Orthopedic, visual, speech and hearing impairments
- Cerebral palsy, epilepsy, muscular dystrophy, or multiple sclerosis
- Cancer, heart disease
- Metabolic disease, e.g., diabetes or phenylketonuria (PKU)
- Severe food allergy that triggers anaphylaxis
- Mental retardation, emotional illness
- Drug addiction and alcoholism
- Specific learning disabilities
- HIV disease, tuberculosis



Accommodations



- Food intolerances may soon be considered disabilities



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 disabilities restrict their diets



Special Diets Resources



CSDE Web Site: Accommodating Special Dietary Needs in School Nutrition Programs

- CSDE's Guide, *Accommodating Special Dietary Needs in School Nutrition Programs*
- Summary Chart (Overview of USDA Requirements)
- Medical Statement Information
- Milk Substitution Information
- Additional Resources

www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=333730



Dietary Disabilities



Disability

- SFAs are **required** to make substitutions for life-threatening food allergies and any other medical conditions that meet the definition of disability
- Substitutions for children with disabilities must be documented with a medical statement signed by a recognized medical authority

Intolerance

- SFAs can **choose** whether to make substitutions for food intolerances and any other medical conditions for children without disabilities, based on a medical statement signed by a recognized medical authority



Accommodation Denial



- If school food service department denies accommodation, they must inform the parent/guardian of the right to appeal
- School administration maintains a student's disability status and the appeals process for the Individualized Education Plan (IEP) and Section 504 Plan



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)**



Customer Service



“How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving, and tolerant of the weak and strong. Because someday in life you will have been all of these.”

- George Washington Carver



Customer Service



Questions to ask before interacting with participants

- Am I treating this person the same way as others
- Have I explained to the person about the specific information I need
- Have I given this person the opportunity to clarify all relevant factors or inconsistencies and ask questions
- Have I provided this person with the needed information to make necessary decisions



Conflict Resolution



This area must be covered in the 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

www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/fnsinstructions/113-1.pdf



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



Complaint Procedures



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

- The district must have a written, formal procedure for receiving and processing complaints alleging discrimination within FNS programs (NSLP, SBP, SMP, FFVP, ASP)

www.sde.ct.gov/sde/lib/sde/pdf/deps/nutrition/fnsinstructions/113-1.pdf



Complaint Procedures



- Never discourage groups or individuals from filing complaints or from voicing allegations of discrimination
- Complaints regarding civil rights must be submitted to the USDA or CSDE
 - Nondiscrimination statement provides instructions

<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>



Verbal Complaints



The SFA must also include assurances that

- **The procedures for receiving a complaint will not prevent a complaint from being accepted**
- **The SFA will not attempt to resolve the complaint themselves**



Verbal Complaints



The SFA must also include assurances that

- The SFA will provide the complainant with information pertaining to filing a Program Discrimination Complaint as a USDA Customer

https://www.ascr.usda.gov/sites/default/files/Complain_combined_6_8_12_508_0.pdf

AND

- will refer the complainant to the FNS Civil Rights Web site

www.fns.usda.gov/civil-rights



Verbal Complaints



If complainant will not put the complaint in writing, the SFA must do so and include

- 1. Complainant's name, address, phone number, and any other contact details**
- 2. Location and name of state agency, local agency, or other provider of the service or benefit**
- 3. The incident or action that led the complainant to feel discrimination was a factor**
- 4. Example of the disparate administration method**



Verbal Complaints



If complainant will not put the complaint in writing, the SFA must do so and include

- 5. Discrimination basis claimed: race, color, national origin, age disability or sex**
- 6. Names, telephone numbers, titles and addresses for those with potential knowledge of the alleged discrimination**
- 7. The dates of alleged discrimination or, if continuing, the duration of events**



Complaint Processing



- If the complaint is given to the SFA, the SFA must forward it to the USDA
- Send to address on the USDA nondiscrimination statement
 - The long statement contains the instructions for filing a complaint



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**



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**



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



Required Training



This PowerPoint presentation is available on the CSDE Civil Rights Web site for SFAs to use in providing staff training

www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=333768



Questions



CSDE Consultants for 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) ● New London County (Lebanon, Ledyard, Lisbon, Montville, New London and North Stonington) 	<p style="text-align: center;"> Fionnuala Brown fionnuala.brown@ct.gov 860-807-2129 </p>
<ul style="list-style-type: none"> ● Hartford County (Includes Region 10) ● New London County (Bozrah, Colchester, East Lyme, Franklin, Griswold and Groton) 	<p style="text-align: center;"> Teri Dandeneau teri.dandeneau@ct.gov 860-807-2079 </p>
<ul style="list-style-type: none"> ● Middlesex County (Includes Regions 4, 13 and 17) ● New London County (Preston, Salem, Sprague, Stonington, Voluntown, Waterford and Waterford Country School) ● Tolland County (Includes Regions 8 and 19) ● Windham County (Includes Region 11) 	<p style="text-align: center;"> Susan Alston susan.alston@ct.gov 860-807-2081 </p>
<ul style="list-style-type: none"> ● New Haven County (Includes Regions 5, 15 and 16) ● New London County (Norwich, Norwich Free Academy, Integrated Day Charter School, LEARN, Region 18 and Sacred Heart School) 	<p style="text-align: center;"> Jackie Schipke jackie.schipke@ct.gov 860-807-2123 </p>

