

Module 8—Civil Rights

Target Audience

- Civil rights coordinator
- Child nutrition director
- Executive director

11. [Civil Rights Training Requirements](#)
12. [Complaint Review Procedures](#)
13. [Resolution of Noncompliance](#)
14. [Collection of Racial and Ethnic Data](#)
15. [Resource](#)

Estimated Time Required: 30 minutes

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Learning Objectives

- Identify the U.S. Department of Agriculture (USDA) nondiscrimination statement and develop an understanding of its use
- Identify the USDA nondiscrimination poster **And Justice for All** and develop an understanding of its use
- Develop an understanding of civil rights training requirements for staff
- Describe the steps that a sponsor must take to set up a civil rights complaint procedure
- Describe and compare accommodations, particularly dietary, for a child with and without a documented disability

1. Customer Service and Conflict Resolution

The goal of civil rights regulations is to help sponsors ensure equal treatment and equal access to all eligible students regardless of race, color, national origin, sex, age, or disability. All participants must be treated in the same manner.

Thus, sponsors must be sure that they keep the following points in mind when administering any child nutrition program (CNP):

- Equal treatment for all applicants and beneficiaries
- Knowledge of rights and responsibilities
- Elimination of illegal barriers that prevent or deter students from receiving benefits
- Dignity and respect for all
- All students are included in meals, snacks, activities, and discussions
- Students with special needs will have their needs addressed based on the nature of the disability and recommendations of a recognized medical authority (a licensed physician, a physician assistant, or a nurse practitioner)
- Standards of behavior are not based on membership in a protected class
- Delays in issuing benefits or services that others receive
- Denying benefits or services
- Treating some students differently than others due to their disadvantage
- Given disparate treatment, something which does not seem discriminatory, but has a discriminatory impact in practice

2. Compliance Review Techniques

At a minimum, reviewers will look at the following areas for compliance during the administrative review (AR) process.

- Civil rights complaint information is available to all staff at each site
- Sponsors have a complaint procedure in place
- Complaint procedures incorporate federal requirements
- The **And Justice for All** poster is visible where parents and the general public can see and read it
- Nondiscrimination statement is on public documents that mention or imply involvement with the USDA and CNPs

- Complaint procedures incorporate Limited English Proficiency (LEP) Compliance and Americans with Disabilities Act (ADA) Compliance
- Civil Rights training is provided to all staff
- Racial and ethnic data are collected annually

3. Public Notification Requirements

Public Notification for Schools and Residential Child Care Institutions with Day Students

- Sponsors must annually inform the general public, potentially eligible populations, and community leaders of grassroots organizations about program availability.
- Notification is frequently done through the local newspaper, radio station, or charitable organizations.
- Sponsors must provide the public notification to the local media but are not required to pay to have it published.
- The media can print or announce all or part of the information.
- Sponsors should document their efforts to provide public notification.

Public Notification for Residential Child Care Institutions with no Day Students

Residential child care institutions (RCCI) with no day students are **not** required to submit a public release. However, RCCIs are expected to comply with other requirements related to public notification. Such as posting your participation in the School Nutrition Programs (SNP) and the nondiscrimination statement to a prominent place on the sponsor's Web site and adding to the sponsor's brochures.

4. Foreign Language Translations Requirements

Limited English Proficiency (LEP) persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. Sponsors have a responsibility to take reasonable steps to ensure meaningful access to their programs and activities by person(s) with limited English proficiency. If a significant proportion of the population served by the sponsor uses a primary language other than English, the sponsor is required to provide information in the appropriate language. For more information, refer to Management Bulletin (MB) SNP-09-2016 LEP located on the CDE Nutrition Services Division (NSD) MB Web page at <http://www.cde.ca.gov/ls/nu/sn/mbsnp092016.asp>.

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This institution is an equal opportunity provider.

Family Friendly Applications are located on the USDA School Meals Web page at <https://www.fns.usda.gov/family-friendly-applications> However, these materials do not include state law requirements.

Sponsors using the translated applications from the USDA must ensure that they meet the California Department of Education (CDE) additional requirements. These include the following statements, in at least eight-point boldface type:

1. Applications for free and reduced-price (F/RP) meals may be submitted at any time during a school day.
2. Children participating in the National School Lunch Program (NSLP) may not be overtly identified by the use of special tokens, special tickets, special serving lines, separate entrances, separate dining areas, or by any other means.

Schools and sponsors may use bilingual staff, translators, or other interpretive services to assist households with completing their eligibility applications and answering verification questions. If needed, the use of alternative means of communication (Braille, large print, audiotape, etc.) are required.

For further information on LEP requirements, visit the USDA Web document at <http://www.fns.usda.gov/cr/Documents/113-1.pdf>.

For further information, see the California *Education Code*, Section 49557 Web page at http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=49557.

5. Nondiscrimination Statement Requirements

The USDA nondiscrimination statement must be included on all program materials such as:

- Handbooks for employees, parents, or students
- Application Form(s)
- Notification of Eligibility or Ineligibility
- Notice of Adverse Action Form
- Local school wellness policy
- Print or broadcast advertisements
- Flyers or newsletters
- Web sites

The USDA nondiscrimination statement comes in two versions: the full statement and the short statement.

The full nondiscrimination statement shown below must be included in program materials that are either over one page, produced for public information, education, or distribution, except as noted below:

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.

Menus posted on the sponsor's Web sites are not required to include the full nondiscrimination statement. However, the full nondiscrimination statement must be placed in a prominent location on the Web site.

The short statement can be used on materials, such as flyers or posters, or documents that are one-page by nature. Menus sent to the parents of children enrolled in the district may include the short nondiscrimination statement below, but it is not required.

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If this short statement is used, the print size cannot be smaller than that used for the program material.

No other modifications can be made to these statements. The statement may be accessed at <https://www.fns.usda.gov/usda-nondiscrimination-statement>.

6. Preventing Overt Identification

Overt identification is any action that may result in a child being recognized as potentially eligible to receive or certified free or reduced-price school meals. Sponsors must ensure that a child's eligibility status is not disclosed at any point in the process of providing free or reduced-price meals, including notification of the availability of free or reduced-price benefits; certification and notification of eligibility; provision of meals in the cafeteria; and the point of service (POS).

For more information, see MB SNP-05-2015, Preventing Overt Identification of Children located on the CDE Web page at <http://www.cde.ca.gov/ls/nu/sn/mbsnp052015.asp>.

7. Poster Requirements

Sponsors must prominently display the USDA nondiscrimination poster **And Justice for All**.

The mandated poster size is 11 inches in width by 17 inches in height.

The poster must be displayed where meals or snacks are served and any location where parents and the public can read it. The poster must be placed in a location that enables program participants to read the text of the poster without obstruction.

Posters are available per request from the NSD by phone at 916-445-7760.

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

8. Faith and Nonfaith-based Organizations

Faith-based organizations can use their facilities to provide meals or snacks without removing religious art, icons, scriptures, or other religious symbols.

Nonfaith-based school meal programs run by a religious organization cannot include prayer before a meal or snack. Religious practices are allowed if they occur at a different location or time.

Catholic, Christian, and other religious schools can include prayer before a meal because the parent or guardian who enrolls a child is aware that prayer is part of the school curriculum.

9. Reasonable Accommodations

Reasonable accommodations also include maintaining equal **access** to CNPs. This means that participants must have access to all areas related to the CNPs. For example, a parent in a wheelchair must have access to the food service department where he or she might need to pick up or drop off an application.

The ADA Amendment Act requires that sponsors provide substitutions to a child with a disability when a written medical statement or a completed CDE Medical Statement form that is signed by a state licensed healthcare professional supports the need for a substitution. A disability is defined as a mental or physical impairment which substantially limits one or more major life activities, which includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, learning, reading, concentrating, thinking, communicating, and working. This also includes major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

The **Medical Statement Form to Request Special Meals and/or Accommodations** can be downloaded from the CDE Web page at <http://www.cde.ca.gov/ls/nu/cr/documents/medstat.doc>.

A medical statement must be completed in its entirety and provided to the sponsor before any meal modification can be provided by the school food service program. Sponsors must keep the medical statement on file to ensure that a child's modified meal is reimbursable, and that any meal modifications meet nutrition standards that are medically appropriate.

An individualized education plan (IEP) is a plan developed to ensure that a child who has a disability receives specialized instruction and services. If the child's IEP or 504 Plan includes the same information required in the medical statement, or if the required information is obtained by the school during the development or review of the IEP or 504 Plan, it is not necessary for the SFA to obtain a separate medical statement.

Accommodations for a disability: Sponsors **must** provide modifications for a child with disabilities on a case-by-case basis when supported by a written medical statement or completed CDE Medical Statement form that is signed by a state licensed healthcare professional.

Accommodations that are not a disability: Sponsors have the **option** to accommodate children with special dietary needs that are not considered a disability. This includes those accommodations related to religious or moral convictions or personal preference. Examples of personal preference could include: picky eaters, vegetarians, and vegan diets.

State licensed healthcare professional: The CDE only permits the following state licensed healthcare professionals to complete and sign a written medical statement: licensed physicians, physician assistants, or nurse practitioners.

The ADA Amendment Act of 2008 broadened the definition of a disability to cover additional individuals; therefore, more children may be identified by their licensed physician, as having a food related disability than were identified previously. Access the USDA Policy Memorandum SP-36-2013, Guidance Related to the ADA Amendments Act, located at <https://www.fns.usda.gov/guidance-related-ada-amendments-act>.

The 2017 Edition on Accommodating Children with Disabilities in the School Meal Programs provides guidance for SFAs to ensure equal access to Program benefits for children with disabilities, which includes providing special meals to children with a disability that restricts their diet. The manual includes nine major sections: Introduction; Statutory and Regulatory Requirements; Making a Meal Modification; Reimbursement for Modified Meals; Meal Modifications and Substitutions; Meal Service Accommodations; Procedural Safeguards and Training; Non-Disability Situations; and Appendices. Access the 2017 Edition on Accommodating Children with Disabilities in the School Meal Programs, SP40-2017 on the USDA Web page at <https://www.fns.usda.gov/2017-edition-accommodating-children-disabilities-school-meal-programs>.

Access MB SNP-02-2017, Modifications to Accommodate Disabilities in the School Meal Programs, located on the CDE SNP MB Web page at <https://www.cde.ca.gov/ls/nu/sn/mbsnp022017.asp>. Please note this **only affects school food authorities (SFA) participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program, and Fresh Fruit and Vegetable Program.**

MB CACFP-08-2017; SFSP-02-2017, Modifications to Accommodate Disabilities, located on the CDE CACFP MB Web page at <https://www.cde.ca.gov/ls/nu/cc/mbcacfp082017sfsp022017.asp>. Please note this **only affects agencies on the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP).**

See Module 9—Offer versus Serve and Special Meal Planning Considerations—for more information concerning accommodating children with or without a disability.

10. Accessibility

A qualified person with a disability may not be excluded from, denied benefits of, or subjected to discrimination in any program, or activity related to the CNPs. A sponsor may not restrict access for students with disabilities to schools, programs, services, and activities because of architectural barriers, equipment barriers, the need for related aids and services, or the need for auxiliary aids. Section 504 and ADA Title II are based upon the premise that students with disabilities will be integrated with their nondisabled peers as much as possible.

Research shows that persons with disabilities in their educational setting are enhanced when they are integrated with the appropriate aids and services.

Sponsors may not exclude students with disabilities from enjoying the benefits of its program or service due to inaccessibility of facilities, according to Section 504 of the Rehabilitation Act of 1973.

A sponsor shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to disabled persons. If parts of a sponsor's program are not accessible, that sponsor must offer comparable access to a person with a disability. Every part of a facility must be accessible to and usable by persons with disabilities.

As it relates to the food service, sponsors should keep in mind of the following:

- The sponsor must have a system in place for the identification and evaluation of classrooms, lunchrooms, and other areas where food is served for accessibility of disabled persons.
- The sponsor implements policies and procedures ensuring access for students with disabilities to programs, services, and activities.
- The sponsor provides appropriate aids and services for students with disabilities and does not have policies that limit participation of students with disabilities.

Accommodations could include, but not limited to the following:

- Ramps for office accessible
- Entrances to eating areas
- Access to drinking fountains and water coolers for persons in wheelchairs
- Sinks, seating, tables, and work surfaces that are ADA compliant
- Assembly areas accessible to all

- Adaptive eating equipment
- Provide physical assistance such as carrying trays

11. Civil Rights Training Requirements

Civil Rights Training

Annual training on civil rights-related laws, regulations, and procedures is required for staff involved in all levels of CNP administration, including those responsible for compliance.

Sponsors are responsible for providing annual training for all personnel, including frontline staff. The sponsor must provide and maintain documentation indicating that the civil rights training occurred, the topics covered, and documentation of the participants who attended.

Specific training subjects must include, but are not limited to the following:

- Collection and use of racial and ethnic data
- Public notification procedures
- Complaint procedure—a procedure for accepting and processing complaints alleging program violation or discrimination in the federal CNPs. Allegations may be made verbally or in person. The sponsor's procedure for receiving a complaint may not prevent the complaint from being accepted or forwarded to the responsible authority. The procedure must identify the outside sponsor to which these complaints will be forwarded (i.e., USDA, CDE)
- Resolution of noncompliance—a procedure for evaluating and correcting areas of noncompliance with regard to civil rights
- Compliance review techniques—a procedure for monitoring compliance with federal civil rights requirements
- Requirements for reasonable accommodations of persons with disabilities that restrict the diet or equal access to areas related to the CNP
- Requirements for language assistance—sponsors are required to take reasonable steps to ensure meaningful access to FNS program information and services
- Customer service and conflict resolution

Training resources are located on the USDA Professional Standards for School Nutrition Professionals Web site at <https://professionalstandards.nal.usda.gov/>.

12. Complaint Review Procedures

Sponsors are required to have written civil rights complaint procedures that:

- Appoint a civil rights coordinator to address civil rights complaints
- Establish a procedure for forwarding civil rights complaints to USDA
- Establish a procedure for processing program complaints
- Provide staff training and implementation procedures to determine and process complaints
- Make information available about requirements and procedures for filing a complaint in English or the appropriate language
- Procedures should also include the address listed in the nondiscrimination statement to where complaints should be forwarded.

Recommendation for documentation of a complaint:

In order to meet federal civil rights requirements for CNPs, the civil rights complaint coordinator must maintain a complaint log. The complaint log shall include (at a minimum) the following information:

- The name, address, and telephone number or other means of contacting the complainant (if not anonymous)
- The specific location and name of the entity delivering benefits
- The nature of the complaint or action that led to the charges being filed

If the nature of the complaint alleges discrimination, the civil rights complaint coordinator shall also collect:

- The basis on which the complainant feels that discrimination occurred. In order to be considered a discrimination complaint, the complainant must feel discriminated against based on one or more of the protected classes (race, color, national origin, age, disability, and sex)
- The names, titles, and if known, addresses of persons who may have knowledge of the discriminatory action or situation
- The date(s) that the alleged discrimination occurred or the duration of such action

Forward complaints of discrimination to the address in the nondiscrimination statement.

Documents must be retained for three years beyond the closure of the complaint.

Note: The complaint review process must be a written procedure.

Additional information about civil rights and complaint procedures is located on the MB Civil Rights and Complaints Handbook located on the CDE Web page at <http://www.cde.ca.gov/ls/nu/cr/>.

Civil Rights Exercise

Take a moment today to do the following:

- Identify your civil rights coordinator
- Ensure that you have a written procedure for handling complaints
- Determine if you and your co-workers are following the written procedure

13. Resolution of Noncompliance

If a sponsor is found to be out of compliance with any civil rights requirements during an AR or as the result of a complaint investigation, the sponsor must immediately take steps to correct the noncompliance and provide supporting documentation demonstrating that the noncompliance is permanently corrected.

14. Collection of Racial and Ethnic Data

Racial and ethnic data must be collected annually for potential students in the service area.

If a household fails to self-identify racial or ethnic information on the meal application, the applicant should be informed that a visual identification of his or her race and ethnicity would be made and recorded in the data system.

Data collectors may not **second guess** or in any other way change or challenge a self-declaration made by the applicant as to his or her race or ethnic background unless such declarations are patently false.

Racial and Ethnic Data

A two-part question is required to collect racial and ethnic data and this question is included in the NSLP and School Breakfast Program prototype applications provided by the NSD.

The two-part question separates ethnicity and race. It includes first selecting one of two ethnicities followed by selection of one or more of the five races.

Ethnicity (Select one):

- Hispanic or Latino—a person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race. The term **Spanish origin** can be used in addition to **Hispanic**

- Not Hispanic or Latino

Race (Select one or more):

- American Indian or Alaskan Native—a person having origins in any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment
- Asian—a person having origins in any of the original peoples of the Far East Southeast Asia, or the Indian subcontinent, including for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam
- Black or African American—a person having origins in any of the black racial groups of Africa. Terms such as **Haitian** or **Negro** can be used in addition to **Black or African American**
- Native Hawaiian or other Pacific Islander—a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- White—a person having origins in any of the original peoples of Europe, the Middle East or North Africa

Note: Recommended instructions accompanying the multiple responses for race should specify:

Mark one or more or Select one or more

15. Resource

The Civil Rights Quick Reference Guide is located on the SNP Primer Web document at http://www.calpronet-sj.org/pdf_snp/QR_Civil_Rights.pdf.

NSD Civil Rights and Complaints Handbook: <http://www.cde.ca.gov/ls/nu/cr/>

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

CDE NSD Civil Rights Web page: <https://www.cde.ca.gov/ls/nu/cr/>

USDA Civil Rights Web page: <https://www.fns.usda.gov/civil-rights>

Contact Information

Civil Rights

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For the name and phone number of your local child nutrition consultant or SNP specialist, please call 800 952-5609, Option 2, or 916 323-2590.

This module provides the following Professional Standards:

Key Area: Administration (3000)

Learning Topics: Human Resources and Staff Training (3400)

Learning Objective: Implement current procedures (3420)

Instructional Minutes = 30