

USDA Civil Rights

Your responsibility in providing equal access in Child Nutrition Programs.

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MASSACHUSETTS DEPARTMENT OF
ELEMENTARY AND SECONDARY
EDUCATION



Goals of Civil Rights

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



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Civil Rights Legislation

- ★ Title VI of the Civil Rights Act of 1964- race, color, national origin
- ★ Civil Rights Restoration Act of 1987- clarifies the scope of Civil Rights Act 1964
- ★ Section 504 of the Rehabilitation Act of 1973- disability
- ★ Americans with Disabilities Act of 1990
- ★ Title IX of the Education Amendments of 1972- sex
- ★ Age Discrimination Act of 1975- age



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Authority

- ★ Programs receiving USDA funds must follow civil rights regulations & 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 (SFAs, LEAs, districts) receiving federal reimbursements must implement Civil Rights requirements to be eligible for the program.



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Food and Nutrition Services (FNS)

- ★ FNS 113-1 regulations cover these programs:
 - ★ National School Lunch
 - ★ School Breakfast
 - ★ Special Milk
 - ★ Summer Food Service
 - ★ Food Distribution
 - ★ Child and Adult Care Food



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Civil Rights Requirements FNS 113-1

- ★ USDA requires that all staff who work with program applicants or participants receive annual civil rights training.
- ★ To inform, educate, and support all staff who interact with School Nutrition Program
 - ★ Inform- SNP responsibilities & rights of participants
 - ★ Educate- SNP on general civil rights requirements
 - ★ Support- provide resources & information



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Federal Law Prohibits Discrimination On the Basis of Any Protected Class



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What is a Protected Class?

- ★ A protected class refers to any person or group of people who have a characteristic for which discrimination is prohibited by law.



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Protected Classes

★ Federal

- ★ Race
- ★ Color
- ★ National Origin
- ★ Age
- ★ Sex
- ★ Disability

★ Massachusetts

- ★ Religious creed
- ★ Ancestry
- ★ Gender identity
- ★ Criminal record (inquiries only)
- ★ Mental Illness
- ★ Sexual orientation
- ★ Genetics
- ★ Active military
- ★ Discrimination complaint (past involvement)



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What is Discrimination?

“Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions...”

- ★ Delayed benefits or services
- ★ Denied benefits or services
- ★ Treated Differently to their disadvantage
- ★ Given Disparate treatment



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What are your requirements?

- ★ Public Notification
- ★ Collect and report racial & ethnic data
- ★ Assure equal access to programs
- ★ Provide reasonable accommodation:
 - ★ Limited English Proficiency
 - ★ Disabilities
- ★ Handle civil rights complaints
- ★ Conduct annual civil rights training



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Public Notification (7 CFR 245.5)

Purpose:

- ★ To inform surrounding area that your school/district participates in the Child Nutrition Programs
- ★ To reach as many potentially eligible persons, applicants, participants as possible
- ★ To ensure program access



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Public Notification

Must include information on:

- ★ Eligibility
- ★ Benefits and services
 - ★ Free, Reduced, CEP
 - ★ Breakfast, Lunch, Dinner, Snack
- ★ Program availability
- ★ Applicant rights and responsibilities
- ★ Procedures for filing a complaint
- ★ Non-discrimination statement



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Methods of Public Notification

- ★ Public Release (required)
 - ★ Inform the general public that your school participates in CNPs and that free/reduced price meals are offered.
- ★ Post "And Justice for All" (required)
- ★ Other methods (optional)
 - ★ Bulletins, letters/brochures, Internet
- ★ Monitored through Administrative Review process



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Public Release



A public release is required to be submitted at or near the beginning of each school year.

- ★ Media- local/community newspaper, radio, TV
- ★ Unemployment Office
- ★ Keep documents on file of where information was sent and keep date it was submitted (newspaper posting)



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“And Justice for All” Poster

- ★ All programs participating in the Child Nutrition Programs must display the USDA non-discrimination poster in a prominent area where **participants** and potential **participants** have access to it.
- ★ Must be 11” x 17” format.
- ★ Must use actual poster.
- ★ <http://www.fns.usda.gov/cr/and-justice-all-posters>



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“And Justice for All” Poster

- ★ Posted in each cafeteria where meals are served
- ★ Food Service Director’s Office
- ★ Hearing Official’s Office
- ★ Classrooms- only if all meals (breakfast & lunch) are served and consumed in room



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Non-Discrimination Statement

- ★ The USDA required non-discrimination statement must be included on all forms of communication and program materials.
- ★ This includes all materials for public information, or distribution that mentions USDA programs.
- ★ Statement must be exact and cannot be changed...**Do NOT CHANGE THE FORMAT!**
- ★ The font size must be the same as the majority of the font used in the document.
- ★ The shorter version maybe used for broadcast advertisements/public service announcements.



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Non-Discrimination 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](http://www.ascr.usda.gov/complaint_filing_cust.html), (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.



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Non-Discrimination Statement

Materials that Require the FULL Non-Discrimination Statement

- ★ Print Advertisements- flyers, brochures, posters
- ★ Agency Publications- parent/student handbook, employee handbooks, newsletters
- ★ School Websites (Food Service Webpage)
- ★ Free and Reduced Application
- ★ Letters- household notifications (benefit letters/verification), denied letter with hearing procedures
- ★ Meal Collection (debt) notifications



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Non-Discrimination Statement

"This institution is an equal opportunity provider."

- ★ Needs USDA approval for use.
- ★ VITAL documents need the FULL version.



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Racial & Ethnic Data- Collection/Reporting

Why Do I Have to Collect Racial & Ethnic Data?

Racial/ethnic data is used to determine how effectively your program is reaching potentially eligible children and where outreach may be needed.

- ★ Voluntary self-identification (preferred)- Income application
- ★ Visual identification (not preferred)
- ★ Personal knowledge, records or other documentation your district has that identifies household racial/ethnic data.



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Equal Access Programs

- ★ All students must be allowed equal opportunities to participate in the school nutrition programs regardless of race, color, national origin, sex, age, disability.
- ★ All participants must be treated in the same manner (seating arrangements, serving lines, services/facilities, assignment of eating periods, methods for application approval and verification processes).
- ★ Denied access to school meals is impeding educational opportunities.



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Meal Service

- ★ Children must not be required to use separate dining room, separate serving lines based on eligibility status, age, gender, etc. (Gender SP 31-2015)
- ★ Examples:
 - ★ Free and Reduced eligible students do not use a separate dining line, they are not charged a "premium" in tiered meal pricing.
 - ★ Boys are not seated at separate tables from girls (this is implied segregation and questionable unless done for disciplinary reasons).



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Meal Service

- ★ All children in the same grade grouping must be offered the same selection of menu items in the same amounts.
- ★ Examples:
 - ★ Students of the same age are given the same amount of food.
 - ★ Foods available in the first lunch are available in the last lunch- every student has access to the same meal.



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Denial of Meals

USDA policy prohibits the denial of meals as a disciplinary action against any student who is enrolled in a school that participates in the Child Nutrition Programs.

The following are circumstances where meals may be denied-

- ★ Disciplinary actions- student is suspended or expelled from school on particular day(s).
- ★ When student does not have lunch money (cash, check or money on student account). HOWEVER:
 - ★ It is recommended that the school/SFA establish policies to handle situations and inform parents/students of limitations of policy.
 - ★ Each school/SFA is free to decide whether to institute negative balance limits or provide alternative meals/food items for these children.
- ★ ESE DOES NOT SET CHARGE POLICIES. THESE ARE DETERMINED BY YOUR DISTRICT (SCHOOL COMMITTEE APPROVAL).



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Access to School Meals

Incorporate the following when planning meals-

- ★ Massachusetts General Law (c. 69 Sec 1C) states all public schools must make lunches available to children.
 - ★ Work with school Administrators for half-day/early release.
- ★ State Mandated Breakfast- SFAs must offer breakfast every school day (half-days, delayed start, etc.).
- ★ Publicly funded out-of-district programs- Private special education schools/programs must have school meals (breakfast & lunch) available to the student with disabilities who have been placed in out-of-district programs at public expense.
 - ★ State Mandated Breakfast School- sending district



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Accommodations

- ★ English Proficiency (LEP)
- ★ Dietary Substitutions



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Limited English Proficient

What is your responsibility? (SP 37-2016)

- ★ Required to take reasonable steps to ensure meaningful access to school meals for eligible students from LEP households
- ★ Be familiar with how your district tracts LEP- what systems are in place in district
- ★ Simply offering the most common non-English language is not sufficient.



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Administrative Review Q: 802

What services do you provide to Limited English Proficient (LEP) households?

Responses:

- ★ School takes care of it- I only deal with F & R applications.
- ★ We have applications in Spanish & Portuguese if the student asks.
- ★ I work with the foreign language teacher.
- ★ We don't have LEP.
- ★ I don't know.
- ★ ?



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Limited English Proficient

- ★ Identify LEP prior to distribution of school meal applications (school data/enrollment)
- ★ Use "I Speak" document with application
- ★ Train bilingual staff to act as interpreters/translators
- ★ Interpreters from another area
- ★ Advocacy groups within community

- ★ DO NOT use children as interpreters!



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Dietary Accommodations

What is the School's Responsibility?

Student *With* a Disability-

- ★ Schools must make food substitutions in school meals for children whose disabilities restrict their diet (Section 504 Rehabilitation Act of 1973).
- ★ Schools must have a medical statement signed by a licensed physician or a State recognized medical authority.
 - ★ Food to be omitted and what the substitution is



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Dietary Accommodations

What is the School's Responsibility?

Student *Without* a Disability-

- ★ Schools are encouraged, but are NOT REQUIRED to make food substitutions.
 - ★ Food allergies or intolerances- NOT generally considered a disability unless the food causes life-threatening reaction (in which case a medical statement would be on file).
- ★ Schools must have a medical statement signed by a licensed physician or a State recognized medical authority.



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Civil Rights Complaints

- ★ Individuals have the right to file a complaint.
 - ★ 180 days to file from alleged discriminatory act
 - ★ Complaints can be written, verbal or anonymous
 - ★ Can contact USDA, NERO, State Agency
 - ★ Never discourage filing complaint
- ★ Referral to USDA is currently required for complaints on the six federally protected classes.
- ★ Referral to ESEs Problem Resolution System Office (state classes).
 - ★ <http://www.doe.mass.edu/pqa/prs/> (781-338-3700)
- ★ USDA Discrimination Complaint Form-
http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf



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Administrative Review Q: 803

What is the SFA's procedure for receiving and processing complaints alleging discrimination within FNS School Meal Programs?

- ★ Procedures must include how all applicants and participants have the right to file a complaint, how to file the complaint, and the complaint procedures.
- ★ All SFAs should have a civil rights complaint procedures.
 - ★ Procedures should attempt to resolve matter first.
- ★ Refer to USDA or PRS Office if not resolved.
 - ★ Problem Resolution System Office (at ESE)



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Conflict Resolution

Handling Complaints

- ★ The USDA recommends using an Alternate Dispute Resolution (neutral third party)
- ★ Remain calm, be polite and patient
- ★ Be empathetic. Understand that people may not know the rules or understand how programs work. They may feel uncomfortable coming to ask for help.
- ★ Refer to SFAs handbook for written policies on non-discrimination.
- ★ Must maintain a civil rights complaint log



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Compliance Reviews

- ★ Civil rights compliance should be assessed at all levels
 - ★ Federal, State, Local Agencies (sites)
- ★ Document all identified civil rights non-compliance
- ★ Communicate these findings to the State Agency
- ★ Stop any discriminatory actions right away
- ★ Implement corrective action immediately



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Training Requirements

- ★ Required annually
- ★ Make it meaningful
 - ★ Front line staff
 - ★ Administrative
- ★ Topics
 - ★ Purpose, protected classes
 - ★ Non-discrimination statement
 - ★ How to file complaint, conflict resolution
 - ★ Customer service
 - ★ Meal service
 - ★ Confidentiality
 - ★ Language assistance
 - ★ Dietary accommodations



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What to take away from today-

Think about the following...

- ★ Do you have a district-wide civil rights complaint process?
- ★ Are all household notifications consistent with current USDA proto-types?
- ★ Is the correct non-discrimination statement used?
- ★ Are foreign language translations available?



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Think About...

- ★ Are children separated during the meal service?
 - ★ Dining areas, lines
- ★ Are the same meals available to all children?
- ★ Do all enrolled children (full day) have access to lunch?
- ★ If you serve breakfast, do all children have access?
- ★ Are dietary accommodations made?
- ★ Do you have current And Justice for All posters?
 - ★ Is it visible to students?
- ★ Have you trained your staff on civil rights?



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Questions?



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