

Guidance Memorandum 8A: ■ Civil Rights Requirements for the CACFP

Community Nutrition Programs

Child and Adult Care Food Program (CACFP)

[Guidance Memorandums](#) [CACFP Webcast Trainings](#) [Translated Documents](#)

- Poster, Translated Materials, Nondiscrimination Statement, Ethnic/Racial Data Form, Training
 - Document Web Links: documents are accessible under Guidance Memo 8A

Applies To: All Participating Agencies in the Adult Care Component

- Both Independent Agencies (1 site) and Sponsoring Organizations (more than 1 site)

Revision Date: December 2015

I. Authority

Under federal law, no person in the United States shall, on the grounds of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient of Federal financial assistance from the U.S. Department of Agriculture (USDA) or any agency thereof. **These particular laws pertain to participants having access to CACFP benefits or other USDA Child Nutrition Programs and not to employment rights by agencies participating in the USDA Child Nutrition Programs.**

The pertinent laws and regulations include:

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-6**, which prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15, Subpart A and Subpart C.
- B. Americans with Disabilities Act (28 CFR Part 35, Title II, Subtitle A)**, which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.
- C. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et. seq.)**, which prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15 a.
- D. Section 504 of the Rehabilitation Act of 1973**, which prohibits discrimination based on disability; and USDA Implementing Regulation, 7 CFR Part 15 b.
- E. Age Discrimination Act of 1975 (45 CFR Part 91)**, which prohibits discrimination based on age in **programs or activities receiving Federal financial assistance.**
- F. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and Department of Justice (DOJ) Memorandum dated January 28, 1999**, entitled, "Policy Guidance Document—Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs."
- G. Civil Rights Restoration Act of 1987**, which 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.

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- H. **The Food Stamp Act of 1977**, as amended.
- I. **Enforcement of Title VI of the Civil Rights Act of 1964 -- National Origin Discrimination Against Persons With Limited English Proficiency, 65 F.R. 50123, August 16, 2000.** This is the Federal Register cite for Department of Justice guidance for Executive Order 13166, Improving Access To Services For Persons With Limited English Proficiency, signed on August 11, 2000.
- J. **USDA Departmental Regulation 4330-2, Activities Receiving USDA Financial Assistance**, ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the U.S. Department of Agriculture.
- K. **USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations**, implements executive branch policy that, within the framework of constitutional church-State guidelines, religiously affiliated (or “faith-based”) organizations should be able to compete on an equal footing with other organizations for USDA assistance.
- L. **Richard B. Russell National School Lunch Act (NSLA) 42 USC 1751 et seq., Child Nutrition Act of 1966 (42 U.S.C. § 1771 et seq.)**
- M. **7 CFR Part 226**
- N. **FNS Instruction 113-1**
- O. **FNS Instruction 113-1II. Civil Rights Requirements**

II. CACFP Civil Rights Requirements

[Webcast: CACFP Civil Rights Requirements](#)

A. **Prior to approval for the Child and Adult Care Food Program (CACFP)**

1. Indicate what action will be taken to assure that underserved populations have an equal opportunity to participate in the CACFP.
2. Describe efforts to contact minority and grass roots organizations about the opportunity to participate in the CACFP.
 - **DPI’s sample outreach letter may be used for contacting minority and grass roots organizations:**
[Sample Minority and Grass Roots Organizations Outreach Letter](#)
3. List all federal agencies which are providing support to your organization.

B. **“...And Justice for All” Poster**

Prominently display the 11” X 17” size nondiscrimination poster “...And Justice For All”, provided by DPI.

Sponsoring organizations (agencies with more than one site participating on the CACFP) must prominently display the poster in its administrative office as well as at all of its sites participating on the CACFP.

→ **Please contact Shiela Coulton at 608.267.9129 or at Shiela.Coulton@dpi.wi.gov to order additional posters, if needed.**

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C. Make available CACFP information to the public upon request.

On the initial visit, eligible participants who may enroll and/or their guardians should be given specific CACFP information. DPI's resource document titled *CACFP- Adult Care Component Information Sheet* may be used or incorporated with other center enrollment materials.

[CACFP-Adult Care Component Information Sheet](#)

- The center may complete this document by printing its contact information to the left of the State agency contact information; space is available to list:
 - Name of person at center to contact with questions about the program
 - Name of center
 - Address
 - Telephone number of center or sponsoring organization
- Post or Distribute: This document may either be posted by the center in a conspicuous location and/or copies may be distributed to the eligible participants and their families or guardians upon enrolling at the adult care center.
 - **Please note: completion, distribution and/or posting of this document is not a requirement, but recommended.**

D. Translated Materials

Provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the CACFP.

- **Household Size-Income Statements and Household Letters**

DPI has translations of the Household Letter and Household Size-Income Statement in Spanish and Hmong:

[Translated CACFP Documents \(Spanish and Hmong\)](#)

USDA's Prototype Household Size-Income Statement (HSIS) Form and Parent Letter:

USDA's prototype HSIS form and Household Letter are translated into additional languages.

These translated documents are available at:

[USDA Household Size-Income Statement Forms & Household Letters - Other Translations](#)

- Before distributing translated USDA -HSIS forms and Household Letters, **review the English version first to determine which form and letter is intended for adult care centers. *The document you will download for each language includes all of the forms and letters intended for the various components of the CACFP (i.e. adult care centers, child care centers, home providers), together within one document.***

E. News Media Release

Effective June 2014, DPI will be issuing an annual state-wide news media release for all participating agencies. Agencies are no longer required to issue an annual news media release of their own. The News Media Release template form is no longer available for use.

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F. Nondiscrimination Statement with Complaint Filing Procedure

The USDA nondiscrimination statement with its complaint filing procedure must be printed on all materials made available for public information, education, or distribution **which specifically reference the facility's CACFP participation and/or CACFP requirements.**

→ This includes policy handbooks and websites, including when the CACFP Meal Pattern is referenced within nutrition policies.

Web Pages:

At a minimum, the nondiscrimination statement with its complaint filing procedure, or a link to it, must be included on the home page of the program information; it is not required to be on every page of the agency's website.

The authorized statement cannot be modified.

→ The statement must be printed verbatim, the format cannot be changed, and the font should be the same as the majority of the font used in the document.

→ If the material is too small for allowing space to print the full statement (#1 below), the document must, at minimum, include the authorized short version (#2 below), in font size no smaller than the rest of the document's text.

1. Full Statement:

The authorized statement reads as follows in English:

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. 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.

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The authorized statement reads as follows in Spanish:

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el Formulario de Denuncia de Discriminación del Programa del USDA, (AD-3027) que está disponible en línea en: [http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish Form 508 Compliant 6 8 12 0.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf). y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

(1) **Correo:** 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; o

(3) **Correo electrónico:** program.intake@usda.gov

Esta institución es un proveedor que ofrece igualdad de oportunidades.

2. Short Version

If the material is too small for allowing space to print the full statement (#1 above), the document must, at minimum, include the authorized short version in font size no smaller than the rest of the document's text.

The authorized short version of the nondiscrimination statement reads as follows:

In English: This institution is an equal opportunity provider.

In Spanish: Esta institución es un proveedor que ofrece igualdad de oportunidades.

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G. Data Collection

1. Ethnic and Racial Data Information

Annually, collect actual ethnic and racial data of enrolled eligible adult participants at each site.

DPI has provided a sample *Ethnic and Racial Data Form* with instructions on how to complete this information:

[Ethnic and Racial Data Form](#)

Visual identification may be used to determine ethnicity and race, or one may ask the guardian or participant to identify his/her ethnic/racial category. For collecting purposes, an adult may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging to. Participants or guardians of participants may be asked to identify the ethnic/racial group only after it is explained, and they understand, that the collection is strictly for statistical reporting and will have no effect on determination of eligibility for benefits.

- a. Ethnicity and race must be documented as two separate categories.
- b. Collected ethnic and racial data information must be retained on file for the required three years from the end of the current fiscal year.
- c. The data shall be maintained on file using safeguards which prevent its use for discriminatory purposes. Such safeguards include allowing access to Program records containing this data only to authorized personnel.

2. Potential Eligible Beneficiaries

Have ready access to data for potential eligible beneficiaries by ethnicity and race category. You may obtain information on potential eligible beneficiaries at the following websites:

- [Fair Data CACFP Mapper](#)
- [Wisconsin Food Security Project](#)

H. Equal Access to Food Service

Allow all participants equal access to the food service without regard for all protected classes.

I. Equal Access to Adult Day Care Services

Allow all participants equal access to adult day care services and facilities regardless of any protected class.

J. Prohibition of Separation by Gender during Meal Services

In general, Federal nondiscrimination laws and policies do not permit participating agencies to separate participants on any protected class basis during meal service. Any gender separation not based on the Federal Department of Education (ED) and/or the USDA Food and Nutrition Services (FNS) approval processes is strictly prohibited.

→ Any and all exceptions to this law must be submitted to DPI for review and approval, regardless of possible exemption.

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Exemptions to the Prohibition on Gender-Separated Meal Service:

Exemptions may be approved by the State agency, DPI, without further USDA-FNS approval when meal service provided by an adult day care center is affiliated with a religion that dictates gender separation.

Other gender separation circumstances will be handled by the DPI on a case-by-case basis, in direct consultation with the USDA Midwest Regional Office.

K. Annual Civil Rights Training

1. State Agency Training

DPI will provide the required civil rights training to participating agencies for meeting the annual training requirement through group training sessions, recorded webcast trainings, webinar trainings, and/or email notifications.

2. Local Agency Training

a. Participating agencies must provide annual civil rights training to all staff members who interact with program applicants or participants and those persons who supervise these staff.

b. Local participating agencies must cover specific subject matter with their staff:

This subject matter must include, but not be limited to:

- Collection and use of data
- Effective public notification systems
- Complaint procedures
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service

→ **CACFP Civil Rights Training – PowerPoint and Handout:**

In order to assure that all of the USDA required subject matter is covered, agencies should use DPI's *CACFP Civil Rights Training PowerPoint* and/or its handout version to complete the annually required CACFP civil rights training with all staff.

[CACFP Civil Rights Training PowerPoint](#)

[CACFP Civil Rights Training Handout](#)

c. Training Records of Annual Staff Training

Records indicating the agency staff who received the civil rights training, the civil rights topics covered, and the date(s) that the civil rights training was completed must be retained on file.

→ Agencies may utilize the *CACFP Civil Rights Training Attendance Sheet* to document its annual civil rights training with all staff.

[CACFP Civil Rights Training Attendance Sheet](#)

III. Complaints

All written or verbal civil rights complaints alleging discrimination on the basis of all protected classes relating to participant access to the USDA Child Nutrition Programs must be processed within 90 days of receipt. The USDA Office of the Assistant Secretary for Civil Rights is responsible for the handling of these civil rights complaints; this office does not accept complaints based on employment discrimination.

A. Procedure for Filing Complaints of Discrimination

Any person alleging discrimination has a right to file a civil rights complaint within 180 days of the alleged discriminatory action. Under special circumstances, this time limit may be extended by the USDA Office of the Assistant Secretary for Civil Rights.

USDA Program Discrimination Complaint Form:

Agencies should give complainants a [USDA Program Discrimination Complaint Form](#) to complete for collecting the needed information to process the complaint. The *USDA Program Discrimination Complaint Form* and information can also be accessed at http://www.ascr.usda.gov/complaint_filing_cust.html.

Civil Rights Complaints Procedure:

Agencies are required to develop and implement a written procedure to handle any discrimination complaints that may be received. As part of this procedure, agencies should:

- **Maintain a *Civil Rights Complaint Log*** to document all potential complaints.
- **Retain *USDA Program Discrimination Complaint Forms* and *Civil Rights Complaint Log*** in a central location to be accessed only by authorized staff.

B. Acceptance of Civil Rights Complaints

If someone comes to you with a civil rights complaint, written or verbal, you must accept and forward it to the U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights by:

- (1) Mail: 1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov

It is necessary that the information be sufficient to determine the identity of the agency or individual toward which the civil rights complaint is directed, and to indicate the possibility of a violation.

Anonymous civil rights complaints should be handled as any other civil rights complaint.

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C. Verbal Civil Rights Complaints

In the event a civil rights complaint is made verbally or through a telephone conversation, and the complainant does not desire to place the allegations in writing, the person to whom the allegations are made must document the complaint. They should try to obtain the following information:

1. Name, address, and telephone number or means of contacting the complainant.
2. The specific location of the CACFP involved.
3. The nature of the incident that led to the discrimination complaint, or an example of the method of administration which is having a disparate effect on the public, potential participants, or participants.
4. The basis on which the complainant feels discrimination exists.
5. The names, titles, and addresses of persons who may have knowledge of the discriminatory action.
6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

D. Investigation

The U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights has the responsibility to determine if an investigation or a preliminary inquiry will be conducted.

E. Closure

The U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights is responsible for closure of all Title VI complaint files.

III. Assurance

It is required that assurances of compliance with the Civil Rights Act of 1964 be given by agencies and entities administering the CACFP. It is in the signed Permanent Agreement (PI-1486-AP) between DPI and agencies participating in the CACFP.

V. Resolution of Noncompliance

Once probable noncompliance is found, steps must immediately be taken to obtain voluntary compliance. If corrective action has not been completed within 60 days of the findings, a report must be sent to the U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights for transmittal to the Department of Justice.

VI. Review

DPI will review participating agencies for compliance with the civil rights requirements as a part of its routine review system.