



MEMO

TO: Sponsors of the School Nutrition Programs, Summer Food Service Programs and The Child Adult Care Food Program

FROM: Vonda Cooke, M.S., R.D.
State Director, Child Nutrition Programs

DATE: June 6, 2016

RE: Nondiscrimination Statement & Civil Rights Requirements

This Memo includes revisions and replaces the November 10, 2015 PDE-200 & 200a Memos on PEARS, Download Forms.

On October 14, 2015, the United States Department of Agriculture (USDA) provided guidance on the updated Nondiscrimination Statement (NDS) in the attached memo, PDE 200. All School Nutrition Program (SNP), Summer Food Service Program (SFSP), and Child and Adult Care Food Program (CACFP) sponsors are required to utilize the following Nondiscrimination Statement on documents provided to the public.

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) E-mail: program.intake@usda.gov.

This institution is an equal opportunity provider.

This statement must be used as provided above. Spacing may not be changed. Font size may be altered but can be no smaller than the smallest font of the document. The Pennsylvania Department of Education (PDE), Division of Food and Nutrition (DFN), encourages the use of this document in its entirety; however, in special circumstances, "This institution is an equal opportunity provider and employer," may be utilized but only with prior approval of PDE/DFN.

Civil Rights Training

Sponsors participating in the SNP, SFSP and CACFP must provide annual Civil Rights training to staff that interact with program applicants or participants and their supervisors. Sponsors must maintain records of who attended the training and documentation that the following topics were covered:

- What is discrimination in Child Nutrition Programs
- Assurances
- Public Notification Systems
- Nondiscrimination Statement
- “And Justice For All” Poster
- Collection and Use of Data
- Complaint of Discrimination and Procedures
- Racial and Ethnic Data Collection
- Limited English Proficiency (LEP) and Program Access
- Disability Discrimination
- Compliance Reviews
- Resolution of Noncompliance
- Customer Service

Civil Right training for sponsors and their staff, which includes all of the required information, is available for:

- School Nutrition Program Sponsors, on the School Nutrition Toolbox, at ****www.schoolnutritiontoolbox.org**
- Child and Adult Care Food Program Sponsors, on their Child Nutrition Toolbox, at ****<http://www.childnutritiontoolbox.com>**
- Summer Food Service Program Sponsors, ****<http://www.childnutritiontoolbox.com>**

Complaint Procedures

All SNP, SFSP and CACFP sponsors must establish and maintain a procedure for processing and resolving complaints of discrimination. The Procedure for Food and Nutrition Services (FNS) Civil Rights Complaints is attached and can also be found on PEARS, Download Forms PDE200b. This procedure contains all of the required steps. Sponsors of SNP, SFSP and CACFP are encouraged to use this procedure. A Sponsor may develop and implement their own procedure but it must contain all the components of the DFN Civil Rights Complaints procedure.

And Justice for All Posters

It is a requirement that Sponsors of the SNP, SFSP and CACFP display in food service areas the “*And Justice for All*” poster.

- The *And Justice For All* posters reflecting the updated NDS have been released from USDA and will be distributed during your Administrative Review (AR) or monitoring. You may also contact DFN to obtain posters.

Procedure for Food and Nutrition Services (FNS) Civil Rights Complaints
Pennsylvania Department of Education
Division of Food and Nutrition

- 1) Sponsor receives a Civil Rights complaint from the complainant (i.e. parent).
 - a) Sponsor must inform complainant of Federal Civil Rights rules and regulations that have been established for protected classes. (A protected class is any person or group of people who are protected from discrimination based on):
 1. Race
 2. Color
 3. National Origin
 4. Age
 5. Sex
 6. Disability
 - b) Sponsor must provide complainant the necessary information to file a complaint, which is:
 1. Mailing address of the USDA:
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
 2. USDA's Telephone/Fax numbers and Email address:
(866) 632-9992 / (202) 690-7442 F/ program.intake@usda.gov
 3. Electronic link to file a civil rights complaint:
http://www.ascr.usda.gov/complaint_filing_cust.html

Note: If the sponsor is unsure if the complaint falls under a protected class, sponsor should provide complainant the federal complaint information.

- c) **After providing the complainant with the information on how to file a Civil Rights complaint directly at the Federal level**, the sponsor may attempt to resolve the complaint if it is a matter that can be resolved quickly. Resolving complaints in real-time at the lowest possible level is encouraged. (***Note:** This is not an investigation as neither the sponsor nor the State agency has the authority to conduct complaint investigations. This is simply trying to resolve the situation if it was potentially caused by a miscommunication.)

If the complainant refuses to discuss the matter any further with the sponsor or if the matter cannot be resolved quickly, then the sponsor should:

1. reiterate the complaint filing procedures in 1)b),
2. document the complaint and actions taken (i.e. referral to Federal complaint procedures) in a Civil Rights complaint log that is separate from any other complaint log, (***Note:** A separate Civil Rights complaint log is necessary due to confidentiality and privacy laws. See complaint log requirements in d) below.), and
3. notify the State agency of the discussion. (***Note:** it is important for the sponsor to notify the State agency because regular communication between the sponsor and State agency is key to operating the program successfully.)

If the complainant is willing to try to resolve the issue with the sponsor and a satisfactory resolution is achieved, then the sponsor should still remind the complainant (using the information in 1)b)) of his/her right to file at the Federal level if necessary. (***Note:** Complainants retain the right to file at the Federal level even if a resolution seems to have been reached at the sponsor level.) The sponsor needs to document the complaint and actions taken (i.e. how resolution was achieved) in a log that is separate from any other complaint log, and notify the State agency of the resolution.

- d) Regardless if the complainant wishes to file at the Federal level, the sponsor should document as much information as possible in their Civil Rights complaint log including, but not limited to, the following:
- Date Complaint Received
 - Complainant's Name
 - Complainant's Address
 - Complainant's Telephone Number
 - Complainant's Email Address
 - Allegation of Discrimination/Issue (i.e. FNS program involved, protected class(es) involved, etc.)
 - Date of Alleged Discriminatory Action

1. The sponsor **must forward** the information, **within 5 days of receipt of complaint** from complainant, to the State agency (process depicted below):

State Agency Civil Rights Coordinator ➔ State Agency Director* ➔ FNS Regional Office Civil Rights Contact ➔ FNS Headquarters Civil Rights Office ➔ Complainant

2. *State Agency level **must forward** complaint information, **within 5 days of receipt of complaint** from sponsor, to the FNS regional office.
3. FNS team conducts complaint review and investigation, which includes contact with the complainant, State agency, sponsor, etc.

2) Additional Information:

- a) Complainants must file within 180 days of the alleged action
- b) Confidentiality is extremely important
- c) USDA complaint form:
 - English
version: http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf
 - Spanish
version: http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf



United States
Department of
Agriculture

Food and
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October 14, 2015

Subject: Revised Equal Opportunity Public Notification Policy

To: Associate Administrators
Deputy Administrators
Regional Administrators
Staff Directors

On June 2, 2015, the Office of the Assistant Secretary for Civil Rights' Policy staff, released Departmental Regulation (DR) 4300-003, Equal Opportunity Public Notification Policy. The DR updates the Nondiscrimination Statement and the "*And Justice For All*" poster.

The DR, which includes the Nondiscrimination Statement language for our programs, can be found at: <http://www.ocio.usda.gov/policy-directives-records-forms/directives-categories/whats-new>. New "*And Justice For All*" posters are in the design/printing phase. Posters will be shipped directly to States when printed based on the orders received by each regional office in September. A timeline for distribution cannot be determined until printing commences.

Attached is the revised 2015 Nondiscrimination Statements (NDS) to be used for all FNS programs. All documents, pamphlets, websites, etc. should be updated as follows:

1. Websites must be updated by November 20, 2015;
2. Documents, pamphlets, brochures, etc. using NDS language prior to 2013 must be Updated by December 31, 2015;
3. Documents, pamphlets, brochures, etc. using 2013 NDS language should be updated when supplies are exhausted or by September 30, 2016; or
4. All new printing must use the 2015 NDS.

Please provide this information to your National and Regional Office program staffs and State and local agencies and subrecipients.

If you have questions, please contact Crystal Tolar, Chief, Compliance Branch, at: crystal.tolar@fns.usda.gov or your Regional Civil Rights Director.


David E. Youngblood, Director
Civil Rights Division

Attachment

USDA Nondiscrimination Statement (Continued)

For all other FNS nutrition assistance programs, State or local agencies, and their subrecipients, must post the following Nondiscrimination Statement:

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