



BEST **FOR**
ALL

We will set all students on a path to success.

Civil Rights in School Nutrition Programs

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BEST FOR ALL

We will set all students on a path to success.

ACADEMICS

ALL TENNESSEE STUDENTS WILL HAVE ACCESS TO A HIGH-QUALITY EDUCATION, NO MATTER WHERE THEY LIVE

STUDENT READINESS

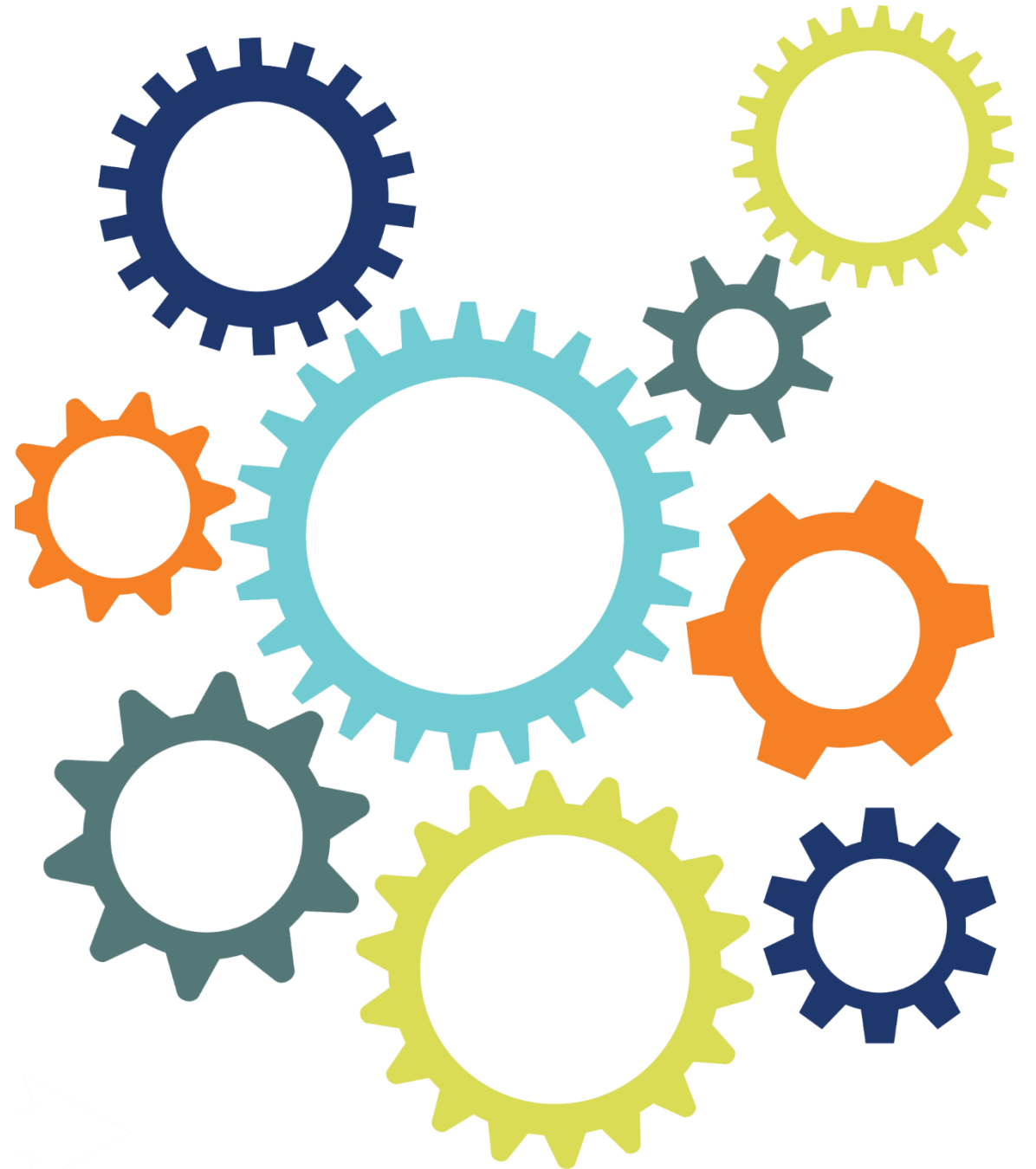
TENNESSEE PUBLIC SCHOOLS WILL BE EQUIPPED TO SERVE THE ACADEMIC AND NON-ACADEMIC NEEDS OF ALL STUDENTS IN THEIR CAREER PATHWAYS

EDUCATORS

TENNESSEE WILL SET A NEW PATH FOR THE EDUCATION PROFESSION AND BE THE TOP STATE TO BECOME AND REMAIN A TEACHER AND LEADER FOR ALL

Mission Statement

Develop extraordinary school nutrition professionals and provide strategies to increase consumption of healthy school meals.



Objectives

- By the end of this training, the SFA supervisors will be able to:
 - Interpret civil rights training requirements
 - Apply assurances and public notification requirements in your programs
 - Refer Civil Rights complaints as required by FNS.
 - Ensure equal opportunity and equally effective communication for individuals with disabilities
 - Ensure meaningful access for individuals with limited English proficiency
 - Collect race and ethnicity data as required by FNS
 - Build customer-focus service for your programs



Civil Rights Coordination Within Your SFA

- SFAs and/or your local board must designate an employee who is responsible for USDA civil rights issues
 - This individual must be knowledgeable of all federal Civil Rights statutes, regulations, directives and guidance
 - This individual must be designated to receive complaints
 - This individual must be known to all employees
 - The designated person must know who to contact if civil rights issues arise



Civil Rights Authorities



Civil Rights Compliance and Enforcement

- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Age Discrimination Act of 1975
- Civil Rights Restoration Act of 1987
- Section 504 of the Rehabilitation Act of 1973
- Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendments Act of 2008



Civil Rights Compliance and Enforcement

- 7 CFR Part 15(a)(b)(c)
- 7 CFR Part 16 Equal Opportunity for Religious Organizations
- 28 CFR Parts 35 and 36, and 28 CFR Parts 41 and 42
- USDA Departmental Regulation 4330-2 and 4300-003



Civil Rights Compliance and Enforcement

- Richard B. Russell National School Lunch Act of 1946
- Child Nutrition Act of 1966
- 7 CFR Parts 210, 215, 220, and 245
- FNS Instruction 113-1 and Appendix B (NSLP, SMP, SBP)



Civil Rights Compliance and Enforcement

- Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency
- [USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition against National Origin Discrimination Affecting Persons With Limited English Proficiency](#)
- [SP37-2016 Meaningful Access for Persons with Limited English Proficiency \(LEP\) in the School Meal Programs Guidance and Q&As](#)



Civil Rights Compliance and Enforcement

- [SP59-2016 USDA FNS Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs](#)
- [SP26-2017 USDA FNS Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers \(Q&A\)](#)
- [SP40-2017 USDA FNS Accommodating Children with Disabilities in the School Meal Programs: Guidance for School Food Service Professionals](#)



USDA (Federal) Protected Classes for School Nutrition Programs

- 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 based on a protected class
- Race
- Color
- National origin
- Age
- Sex (including gender identity and sexual orientation)
- Disability



SFA Civil Rights Requirements



Civil Rights Requirements for School Food Authorities (SFAs)

1. Provide appropriate public notifications
2. Ensure equal opportunity access and equally effective communication for persons with disabilities
3. Make reasonable modifications in policies, practices, and procedures for persons with disabilities
4. Provide auxiliary aids and services for persons with disabilities
5. Collect race and ethnicity data



Civil Rights Requirements for School Food Authorities (SFAs) cont'd.

4. Ensure meaningful access for persons with limited English proficiency
5. Provide qualified language assistance services for persons with limited English proficiency
6. Handle civil rights complaints in accordance with FNS Instruction 113-1 and FNS-TN Complaints Processing MOU
7. Conduct annual civil rights training
8. Conduct compliance reviews as applicable
9. Resolve noncompliance in a timely manner



Public Notification



Public Notification

- All FNS assistance programs must include a public notification program
- The purpose of this system is to inform applicants, participants, and potentially-eligible persons of:
 - program availability
 - program rights and responsibilities
 - the policy of nondiscrimination
 - the procedure for filing a complaint



Public Notification

- Make program information available to the public upon request
- Prominently display the “And Justice for All” poster
- Inform potentially eligible persons, applicants, participants and grassroots organizations or programs or changes in programs



Public Notification

- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for persons with LEP
- Notify persons with disabilities about the availability of reasonable modifications and auxiliary aids and services



Public Notification (Cont'd.)

- Communicate using methods such as
 - Internet and computer-based applications
 - Newspapers
 - Radio/television
 - Letters/leaflets/brochures and
 - Bulletins
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons



Public Notification

- The department publishes information about NSLP on its website.

<https://www.tn.gov/content/tn/education/health-and-safety/school-nutrition/free-and-reduced-price-meals.html>

Free and Reduced-Price Meals

It is important to give our children healthy and nutritious meals to improve their chances of success and improve their learning opportunities. Research indicates eating habits affect learning. The USDA's school meals programs help ensure all students have access to nutritious meals.

Frequently Asked Questions

- > How do I apply?
- > Do I need to fill out an application for each of my children?
- > Who can get free meals?
- > Can foster children get free meals?
- > Can homeless, runaway, Head Start, and migrant children get free meals?

[National School Lunch Program \(NSLP\)](#)

[5 Reasons We Still Need Free & Reduced Meal Applications](#)

- [5 Reasons We Still Need Free & Reduced Meal Applications- Spanish Version](#)



Notice of Free Assistance for Individuals with LEP and/or with Disabilities

Notify individuals with limited English proficiency about the availability of free interpreters and translated materials and how to request them in a language that they can understand.

Notify individuals with disabilities about the availability of free auxiliary aids and services and reasonable modifications and how to request them in language and format that they can understand.



Public Notification

- All information materials and sources used to inform the public about school nutrition programs must use the full USDA nondiscrimination statement (NDS), which includes
 - Application forms
 - Notification of eligibility or ineligibility
 - Expiration of certification notification
 - Discontinuance notification
 - Program (home) web page
 - Public information
- Full NDS cannot be altered



Required Nondiscrimination Statement Language

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or

2. fax:

(833) 256-1665 or (202) 690-7442; or

3. email:

program.intake@usda.gov

This institution is an equal opportunity provider.



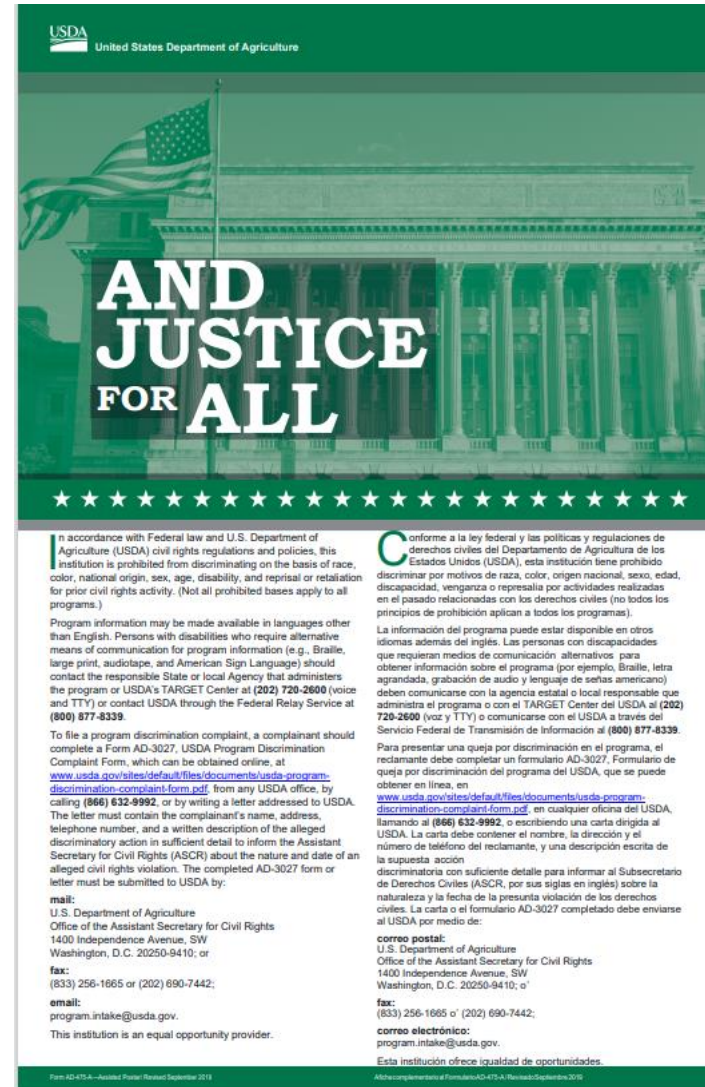
Public Notification

- If the material is too small to permit the full statement, a short statement may be used
 - “This institution is an equal opportunity provider”
- Not having enough room on a pamphlet or brochure is not a valid reason
- For flyers or other program materials that provides general information i.e., daily menu items will not need the NDS
 - If the material impacts benefits, accessibility, eligibility, or appeal rights, the full NDS is required
- Print size for the short statement should be no smaller than the text in the material
- Not required on items such as pens or buttons, which identify the program when size makes it impractical



“And Justice for All” Posters

- All agencies participating in school nutrition programs must display the USDA’s And Justice for All poster in a prominent area where participants and potential participants have access.



“And Justice for All” Posters

- Must be posted at every food service/preparation site
 - Examples: cafeteria/food service area, school nutrition office
- Must be 11” x 17” format
- Reach out to your regional consultant for posters



Public Notification for Alternative Service Locations

- If children are receiving lunch in the cafeteria where the poster is prominently posted, a poster is not required in all the various locations in the school where breakfast may be served
- In those situations where all meals may be delivered to an alternate location, a poster would be required



Quiz #1

Which of the following is NOT true?

The NDS at a minimum must be on the following:

- A. Public Information
- B. Program (home) web page
- C. Pens
- D. Application forms



Assurances of Nondiscrimination Statement



Assurances

- To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the entity to receive financial assistance will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines
- A Civil Rights assurance statement must be incorporated in all agreements between:
 - Federal and CNP State agencies (FNS Form 74)
 - State agencies and local agencies agreements
 - Local agencies and subrecipient contracts (if applicable)



Assurance Statement (Sample)

The vendor hereby agrees that it will comply with:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);
- ix. Food and Nutrition Service (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 the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- x. The USDA non-discrimination statement that 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, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.



Equal Opportunity and Equally Effective Communication for Individuals with Disabilities



What is a disability?

- A person with a disability has a physical or mental impairment which substantially limits one or more of an individual's major life activities, has a record of such an impairment, or is regarded as having such an impairment
- Disabilities are defined based on the Section 504 of the Rehabilitation Act/Americans with Disabilities Act and Part B of the Individuals with Disabilities Education Act (IDEA)



What is meant by “substantially limits?”

- Need not prevent, or severely/significantly restrict a major life activity
- Individualized assessment
- Without regard to ameliorative effects of mitigating measures
- May include an impairment that is episodic or in remission if it would substantially limit a major life activity when active



What is considered a “major life activity”?

- Major life activity means functions such as caring for self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

(ADA Amendments Act of 2008)



What is the SFA site's responsibility to children with disabilities?

- Provide reasonable modifications for participants with disabilities
 - Examples: accessible parking lots, entrances and exits, halls, elevators, and restrooms; access for service animals, wheelchairs and Other Power-Driven Mobility Devices; meal modifications; alternative arrangement for service; and more.
- Provide appropriate auxiliary aids and services to ensure equally effective communication for individuals with disabilities.
 - Examples: Braille program materials, large print, audio media, and sign language interpreters
- Must provide an appropriate meal or meal service when their disability or impairment restricts their food intake



Section 504/ADA Coordinator

- A State or local government that employs 50 or more persons must designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA.
- A recipient or subrecipient that employ 15 or more individuals must also appoint a Section 504 coordinator to coordinate services and resources for individuals with disabilities.
- One person may coordinate implementing regulations, directives and guidance for both statutes.
- The name, office address, and telephone number of the Section 504/ADA Coordinator must be provided to all interested persons.



Reasonable Modifications

- A change or alteration in policies, practices, and procedures to accommodate a disability
- Duty to negotiate over modification. This means simply saying “no” is almost never appropriate.
- Providing appropriate modifications – not ferreting out whether the child has a disability or any possible abuse of the process – is the primary objective
- On a case-by-case basis



Reasonable Modifications

- The modification requested should be related to the disability or limitations caused by the disability
- The modification requested does *not* have to be the modification provided
- Providers must still accommodate even where the person requesting modification believes more should be done
- A reasonable meal modification must be provided for the child at no extra cost to the child.

Exception: Modifications are not required that would fundamentally alter the nature of the program. Providers are advised to consult with FNS before relying on this exception.



Reasonable Modifications: Key Considerations

- Consider costs/resources and age of the child
- “Stereotypes” regarding certain conditions or individuals can never drive decisions. Decisions must be based on facts.
- Meal accommodations do not need to mirror the meal or meal item substituted.
- “Lifestyle” choices (e.g., vegetarian) are not considered disabilities and need not be accommodated unless related to an underlying disability



What about services outside of USDA Programs?

- SFAs may not be required to provide meal services, special foods or supplements to children with disabilities when the meal service is not normally available to all children. This is decided on a case-by-case basis.
- If the IEP or 504 includes special foods or supplements outside of the normal meal periods, funds from the non-profit school food service account may be used to cover the cost of the accommodation.



Food Allergies

- Many food allergies fall under the definition of disability clarified by the ADA Amendments Act (ADAAA).
- According to the CDC and the FASTER ACT of 2021: “In the United States, the following nine foods or food groups account for 90% of serious allergic reactions: milk, eggs, fish, crustacean shellfish, wheat, soy, peanuts, tree nuts, and sesame.”
- Applies to much more than just “life threatening” allergic reactions
- “Digestive” and “Respiratory” functions are specifically listed in the ADAAA



Program Accessibility

- Ensure food service areas are accessible
- Provide other aids and services, if needed. Examples include:
 - Food service aides
 - Adaptive feeding equipment
 - Meal tracking assistance
 - Other effective methods



Most Integrated Setting

- Integration clause in Section 504 means that individuals with a disability should be accommodated in the least restrictive and most integrated setting possible.
- In the food allergy context, this most often comes into play where children with food allergies are ostracized in some way during mealtime.
- Providers must always balance safety vs. stigma. Age and severity of allergy are the primary considerations.



When is a medical statement required?

- If the meal pattern must be altered, then a medical statement is required for the meal to be reimbursable.
 - i.e. water instead of milk
- If the needs of the child can be met without altering the meal pattern and can be done without a medical statement, then a medical statement is not required.
 - i.e. a child allergic to strawberries can be provided an alternative fruit
- Note: the School Food Authority (SFA) can choose to require a medical statement for all meal modifications.



Medical Statement Requirements

- A licensed healthcare professional must document the major life activity that is impaired in a medical statement if the SFA changes the school meal pattern to accommodate a disability
- Statement must provide sufficient information about impairment (disability type or diagnosis not required and should not be requested), how it restricts diet, and how to accommodate condition
- Cannot request medical records/charts
- The focus is not a proving that the student has a disability; rather, the focus is on what can be done to accommodate the child



Medical Professionals with Prescriptive Authority

- Medical Doctor (MD)
- Doctor of Osteopathy (DO)
- Physician's Assistant (PA) with prescriptive authority
- Advanced Registered Nurse Practitioner (ARNP) with certificate of fitness
- Podiatrist (DPM)
- Optometrist (OD)
- Dentist (DDS or DMD)



Sample Medical Statement Supporting Modification for a Food Allergy

Sample Elements for Medical Statement: Fluid Milk Substitution Request

- 1. Food to be avoided:** fluid milk
 - 2. Explanation of how exposure to milk affects the child:**
Ingestion of fluid milk causes the child to have trouble swallowing.
 - 3. Recommended substitute:** juice or water
- USDA has special rules that apply to non-disability milk substitutions (see recent USDA policy memos SP 02-2009, and 07-2010 for details)



State Agency Meal Modification Form Sample



Request for Meal Modifications

_____ Student / Participant Name	_____ Date of Birth
_____ Parent / Guardian Name	_____ Phone
_____ Mailing Address	_____ City / State/ Zip
_____ School / Center / Site	_____ Grade / Classroom
_____ Signature of Parent / Guardian	_____ Date

- Sample on our [website](#)
- SNP Resources > Operational Requirements Diets/Meal Modifications > Resources > Request for Meal Modifications form”

Meal Modification Medical Statement

Federal law and USDA regulation require nutrition programs to make reasonable meal modifications to accommodate children with disabilities. Under the law, a disability is an impairment which substantially limits a major life activity or bodily function, which can include allergies and digestive conditions, but does not include personal diet preferences.

1. **Describe the impairment and how it restricts the child's diet** (i.e., how the ingestion/contact with the food impacts the child):
2. **Explain what must be done to accommodate the child's diet** (i.e., specific food(s) to be omitted/avoided from the child's diet):
3. **List food(s) and/or beverages to be omitted or modified and recommended alternatives:**

HINT: Searching “TDOE SNP Resources” should direct you to the SNP Resources page.

Implementation & Compliance

- Develop procedures for parents/guardians to request reasonable modifications
- Train school and food service staff on reasonable modification procedures and legal requirements
- Appoint a 504 Coordinator to ensure compliance
- *Assemble a Team to implement guidelines and render decisions on modification requests

**Recommended*



Fundamental Alteration

- Modifications are not required that would fundamentally alter the nature of the program.
- Denying a modification under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services.
- The decision that a particular modification or aid or service would result in an undue burden or fundamental alteration must be made by a high-level official, no lower than a Department head in the State agency.
- Providers are advised to consult with FNS before relying on this exception.



Direct Threat

- A significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided in (28 CFR§35.139).
- Not required to permit an individual to participate in or benefit from the services, programs, or activities of that public entity when that individual poses a direct threat to the health or safety of others. [Note: Direct threat to others – not self.]



Safety

- A SFA may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities.
- However, the SFA must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities. (28 CFR 35.130(h))



Public Notifications for Procedural Safeguards

- Provide Notice (in appropriate languages and formats) of -
 - Process for requesting modification
 - Decision
 - Procedural rights
- Opportunity to examine the record and file a grievance;
- An impartial hearing with parental participation and legal representation (if desired); and
- A review procedure (avenue for appeal).



Equally Effective Communication

- Ensure that communication with individuals with disabilities is as effective as communication with people without disabilities.
- This applies to communications with applicants, participants and with their parent, spouse or companions in appropriate circumstances who have hearing, vision and speech disabilities.
- The term “companion” includes any family member, friend, or associate of a person seeking or receiving an entity’s goods or services who is an appropriate person with whom the entity should communicate.



Auxiliary Aids and Services

- Accessible electronic and information technology
- Qualified interpreters on-site or through video remote (VRI) interpreting services
- A qualified interpreter is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.
- Voice, text, and video-based telecommunications products and systems
- Braille or tactile displays
- Screen reader software



Equally Effective Communication

- Use qualified sign language interpreters and do not require an individual with a disability to bring another individual with them to interpret.
- Limit the use of adult or minor child (companions) as interpreters to emergency situations involving an imminent threat to the safety of welfare of an individual or the public when a qualified interpreter is not available.
- Only use an adult companion as an interpreter when an individual requests this, the accompanying person agrees to interpret, and reliance on the accompanying adult is appropriate under the circumstances.
- Ensure Video Remote Interpreting (VRI) technologies meet ADA performance standards (28 CFR 35 and 28 CFR 36.303(f)).



Service Animals

Provide access to for individuals accompanied by a service animal.

- Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
- Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.
- Comfort or emotional support animals are not covered by Section 504 or the ADA.



Service Animals

- Staff may only make two (2) inquiries of the individual with the service animal:
 1. Is the animal required because of a disability?
 2. What work or task the animal has been trained to perform?
- Staff may not require written documentation or certification of need for the animal.



Service Animals

- Allow access for service animals unless:
 - The animal is out of control and the handler does not take effective action to control it; or
 - The animal is not housebroken
- But, where there is a legitimate basis to exclude the animal, the individual with a disability should be given the opportunity to participate in the program without the animal.



Miniature Horses

- Staff must permit access to individuals with disabilities who are accompanied by a miniature horse.
- Miniature horses are not Service Animals; however, the rules require reasonable modifications to permit a miniature horse that has been individually trained to do work or perform tasks.
- The ADAAA provide assessment factors to assist entities in determining whether reasonable modifications can be made.



Wheelchair Access & Mobility Aids

- Permit individuals with mobility disabilities to use wheelchairs and mobility aids in any area open to pedestrian use.
- A wheelchair is a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion.
- Allow individuals with mobility disabilities to use manually-powered mobility aids (includes include walkers, crutches, canes, braces, or other similar devices) in areas open to pedestrian use.



Access for Other Power-Driven Mobility Device (OPDMD)

- OPDMD means “[A]ny mobility device powered by batteries, fuel, or other engines – whether or not designed primarily for use by individuals with mobility disabilities – that is used by individuals with mobility disabilities for the purpose of locomotion.”
- Make reasonable modifications to permit individuals with mobility disabilities to use OPDMDs, unless the SFA can demonstrate that the class of OPDMD cannot be operated in accordance with legitimate safety requirements adopted by the SFA.



Quiz #2

What are the three elements for a meal modification?

- A. Food to avoid, explanation how the exposure affects the child, provider signature
- B. Explanation how the exposure affects the child, Food(s) to avoid, recommended substitute
- C. Provider signature, food to avoid, school nutrition supervisor approval



Race and Ethnicity Data Collection



Collecting and Reporting Participant Data

- Establish a system to collect race and ethnicity data
- Data must be reported on an annual basis
- Program applicants may not be required to furnish ethnicity and race
 - Inform the household that provision of this information is voluntary, collection of this information is strictly for statistical reporting and has no influence on eligibility determination for the program
- Data collectors may not second guess, or change, or challenge a self-declaration or ethnicity/race made by a participant



Collecting and Reporting Participant Data (Cont'd.)

- Why do I have to collect race and ethnicity data?
 - Race and ethnicity data is used to determine how effectively your program is reaching potentially eligible children and to see where outreach may be needed



Collecting and Reporting Participant Data (Cont'd.)

- Two-question format must be used for race and ethnicity categories
 - Ask ethnicity first:
 - Hispanic or Latino
 - Not Hispanic or Latino
- Race (instructions must specify, “mark one or more”)
 - American Indian or Alaska Native
 - Asian
 - Black or African American
 - Native Hawaiian or Other Pacific Islander
 - White



How do we obtain the data?

- Voluntary self-identification or self-reporting (preferred method).
 - Free/reduced (F/R) meal application: Household applications that are completed each year and submitted to the SFA site have a section for the household to identify their race and ethnicity (**households are not required to complete this**)
 - When race/ethnic data is collected online, provisions must be made for applicants/participants to self-identify
- If a household chooses not to provide race and ethnicity information, use one of the following two methods:
 - Visual identification by an SFA site official; or
 - Personal knowledge, records, or other documentation your agency possesses that identify household race/ethnic data



Managing the Data That is Collected

- Collection systems must ensure that data collected/retained is:
 - Collected and retained by each program site
 - Based on documented records
 - Maintained under safeguards that restrict access to personal records to only authorized personnel (i.e., data should be kept secure and confidential)
 - Submitted, if requested, to the USDA FNS regional or headquarters offices
 - Kept on file for three years plus the current year, and identify all sources of information used



Language Access for Individuals with Limited English Proficiency (LEP)



Language Access Requirements

- Limited English Proficiency (LEP) describes individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English
- Reasonable steps must be taken to ensure meaningful access to the information and services provided for persons with LEP
- Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of national origin



What is Meaningful Access

- Meaningful Access generally refers to the provision of reasonable language assistance services that enable an LEP individual to have substantially equal participation in and access to the benefits of a recipient's programs and activities.
- Language assistance services are meaningful when they are "provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person."



An Effective Language Access Plan

SFAs should develop an effective language access plan with policies and procedures consistent with the USDA LEP Guidance.

SFA should designate an individual to coordinate and implement its language access plan.



Elements of an Effective Plan

1. Assesses Language Assistance Obligations
2. Provides Effective Notice to LEP Persons
3. Ensures Use of Qualified, Competent Interpreters and Translators
4. Translates vital documents and information
5. Ensures LEP Access to Websites, Digital Services and customer service voicemail menus
6. Collects Language Assistance Data
7. Identifies Individual Language Assistance Needs
8. Trains Staff
9. Involves Community in LEP Plan
10. Monitors LEP Access



What are Reasonable Steps?

- Reasonable steps are contingent on:
 - The number or proportion of LEP persons eligible to served or likely to be encountered within the area serviced by the recipient
 - The frequency with which LEP persons come in contact with the program or activity
 - The nature and importance of the program, activity, or service to people’s lives; and
 - The resources available to the recipient and costs



What is a Qualified Interpreter?

- Only use qualified interpreter
 - A qualified interpreter is a highly trained individual who mediates spoken communication between people speaking different languages without adding, omitting, or distorting meaning or editorializing.
 - Language line phone service may be available for a subscription fee through your local telephone service provider
 - Telephonic interpreter services is a service that connect to an interpreter remotely
 - SFAs may contract with vendors offering qualified onsite interpretation services.



Are Bilingual Staff Qualified to Interpret?

- Competency requires more than self-identification as bilingual.
- Some bilingual persons may communicate effectively when communicating information directly in a non-English language, but not be competent to interpret (or translate) in and out of English.



Can I use Family and Friends as Interpreters?

- Do not plan to rely on a LEP person's family members, friends, or informal interpreters.
- Do not ask LEP persons to bring their own interpreters.
- Permit use of family and friends, if appropriate, **only after offering** free language assistance.
- Be aware - issues of confidentiality, privacy, competency or conflict of interest may also arise.
- Do not use minor children as interpreters unless in an exigent situation when no qualified interpreter is available.



Translations

- Translate vital documents using competent, qualified translators and proofreaders
 - A qualified, competent translator is a highly trained individual who is able to render text from a source language into a target language while preserving meaning and adhering to generally accepted translator ethics and principles, including confidentiality.
- Ensure vital information on websites and digital services is translated into frequently encountered languages.
- Availability of materials in appropriate languages
 - Translated applications are on the USDA website
 - <https://www.fns.usda.gov/cn/translated-applications>



Quiz #3

True or False?

Failure to provide “meaningful” access to persons with LEP could be discrimination on the basis of citizenship.



Discrimination Complaints



Complaint Procedures

- Recognizing a civil rights complaint
 - Allegation may be based on the protected class in school nutrition: race, color, national origin, age, sex (including gender identity and sexual orientation), disability, and/or reprisal/retaliation for engaging in a protected Civil Rights activity.



Complaint Procedures

- SFAs are required to inform participants of the option to file a complaint with the USDA.
- Complaint must be filed within 180 days.
 - The Secretary of Agriculture or his/her designee may waive this requirement for good cause.



Complaint Procedures (Cont'd.)

- Complaints may be written or verbal, as well as anonymous
- Make an effort to obtain:
 - Name, address, and phone number of complainant, and location and name of the LEA delivering the service;
 - Nature of the incident or action; and
 - Basis on which the complainant believe discrimination exists (which protected class)
- Develop complaint forms (optional), but the use of such forms cannot be a pre-requisite for acceptance.



Complaint Procedures (Cont'd.)

- All complaints must be kept confidential, and the resolution of complaints is always encouraged at the lowest possible level
 - State agencies must maintain a separate log for tracking and kept confidential
- All complaints must be forwarded to the state agency's compliance director and state director upon receipt
- State agency will forward all complaints to General Counsel, who will forward them to the FNS Regional Civil Rights Officer upon receipt.



Quiz #4

True or False?

A complaint that alleges reprisal or retaliation for engaging in a protected civil rights activity is referred to the FNS Civil Rights Division for processing.



Conflict Resolution



Conflict Resolution

In no way is an SFA to impede with a customer's right to file a civil rights complaint. However, most conflicts are easily resolved by using appropriate tools. The Conflict Resolution Network, found online at www.crnhq.org, identifies skills used in successful conflict resolution

1. Using a win/win approach
2. Using a creative response is about turning problems into possibilities
3. Demonstrating empathy is about rapport and openness between people
4. When employing appropriate assertiveness, you should be able to state your case without arousing the defenses of the other person



Conflict Resolution (Cont'd.)

5. Asking open-ended questions to reframe resistance. Explore the difficulties and then re-direct discussion to focus on positive possibilities
6. Remember that managing emotions is internal as well as external
7. A willingness to resolve the conflict is essential by both parties



Civil Rights Training

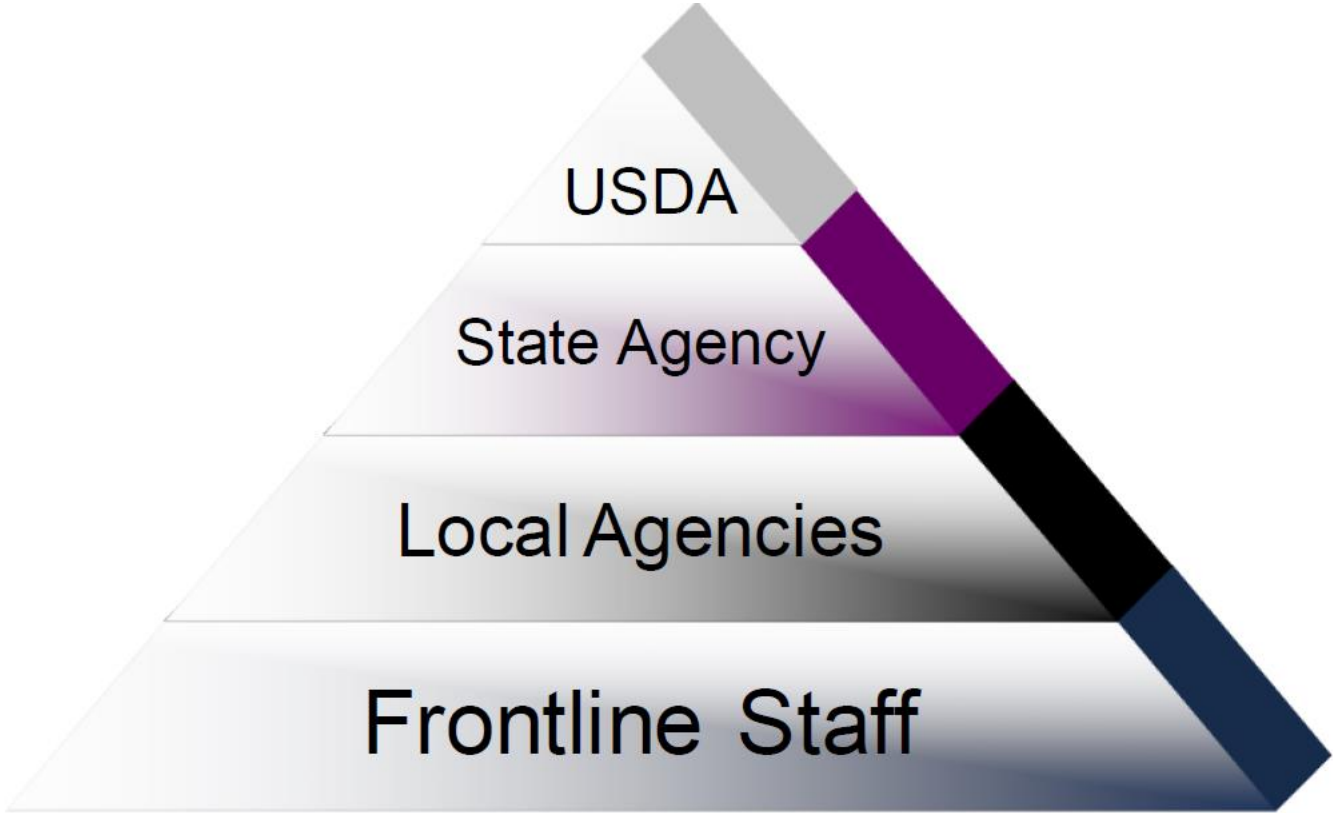


Purpose of Civil Rights Training

- To inform, educate, and support all staff who interact with school meal applicants on:
 - Assurances for contracts with subrecipients
 - Effective public notification systems
 - Complaint procedures
 - Compliance review techniques
 - Resolution of noncompliance
 - Race and Ethnicity Data Collection
 - Reasonable modifications and auxiliary aids and services for individuals with disabilities
 - Language access requirements for persons with Limited-English Proficiency (LEP)
 - Conflict resolution
 - Customer service
- This list is not exhaustive



Civil Rights Training Matrix



Document all Civil Rights trainings

Civil Rights Training Agenda and Sign-in Form

Name of school food authority (SFA)/local educational agency _____

Date of Training _____ Trainer _____

Training is required so that people involved in all levels of administration of programs that receive Federal financial assistance understand civil rights-related laws, regulations, procedures, and directives. Persons responsible for reviewing civil rights compliance must receive training to assist them in performing their review responsibilities. This training may be carried out as part of ongoing technical assistance.

State agencies are responsible for training SFAs/LEAs. SFAs/LEAs are responsible for training their local staff, which includes "frontline staff." Frontline staff is all staff that interacts with program applicants or participants and those who supervise "frontline staff". **Training must occur on an annual basis and civil rights records are to be kept for three years plus the current year.**

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

- A. collection and use of data,
- B. effective public notification systems,
- C. complaint procedures,
- D. compliance review techniques,
- E. resolution of noncompliance,
- F. reasonable modifications and auxiliary aids and services for persons with disabilities,
- G. language assistance services for persons with limited English proficiency,
- H. conflict resolution, and
- I. customer service.

Training Participant Printed Name	Training Participant Signature



Quiz #5

What are the protected classes under School Nutrition Programs?

- A. Race, National Origin, Age, Sex, Religion
- B. Race, Color, National Origin, Age, Sex, (including gender identify and sexual orientation), Disability
- C. Age, Race, Gender, Pregnancy, Veteran Status, Religion
- D. Citizenship, Sex, Age, Race, National Origin, Disability



Compliance Reviews



Compliance Reviews

- The purpose of the review is to determine if the applicant or recipient of federal financial assistance is in compliance with the USDA civil rights requirements



Compliance Reviews (Cont'd.)

- Public release
 - Letter to parents, applicant form, income guidelines
 - Copy on file
- No separation based on race, color, national origin, sex (including gender identity and sexual orientation), age, or disability in
 - Eating periods
 - Seating arrangements
 - Serving lines
 - Eating areas



Compliance Reviews (Cont'd.)

- Non-English language translations and qualified interpreters are available
- Multilingual notices offering free communication assistance for persons with LEP are available
- Multilingual notices offering free auxiliary aids and services for persons with disabilities are available
- And Justice for All poster displayed in prominent place
- Proper use of nondiscrimination statement on program materials, program websites and digital services



Compliance Reviews (Cont'd.)

- Admission procedures do not restrict enrollment by potentially eligible persons
- Incorrectly denied F/R applications are not disproportionately composed of potentially eligible applications from a particular protected class
- Students with disabilities and/or with LEP students are provided equal opportunity access
- Complaint processing procedures require timely referral of discrimination complaints to TDOE and then FNS Regional Civil Rights Officer



Compliance Reviews (Cont'd.)

- Civil rights findings during the administrative review require a corrective action plan that ensures timely compliance



Resolution of Noncompliance and Compliant Procedures



Resolution of Noncompliance

- Noncompliance: a factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines is not being adhered to
- There are no “minor” or “major” categories of noncompliance
- All instances of compliance are considered equally
 - No matter the level or severity of noncompliance, it must be reported



Resolution of Noncompliance

- If noncompliance is indicated, a corrective action plan must be implemented immediately to achieve voluntary compliance within 60 days
- A corrective action plan describes actions the SFA's actions will take to resolve noncompliance with civil rights requirements
- State agencies must report significant findings in writing to the reviewed entity and to the FNS Civil Rights Division



Examples of Noncompliance

- Denying an individual or household the opportunity to apply for school meal program benefits or services on the basis of federally protected classes (race, color, national origin, age, disability, etc.)
- Providing school meal programs services or benefits in a dissimilar manner on the basis of race, color, national origin, age, disability, or sex
- Selecting school meal programs sites or facilities in a manner that denies an individual access to program benefits, assistance, or services on the basis of federal protected classes (race, color, national origin, etc.)
- Retaliating against anyone for engaging in a protected Civil Rights activity, such as filing a complaint or serving as a witness in an investigation



Civil Rights Coordination Within Your SFA

- SFAs and/or your local board must designate an employee who is responsible for USDA civil rights issues
 - This individual must be knowledgeable of all federal Civil Rights statutes, regulations, directives and guidance
 - This individual must be designated to receive complaints
 - This individual must be identified to all employees
 - The designated person must know who to contact if civil rights issues arise



Customer Service



Customer Service

- All students must be provided equal opportunities to participate in school nutrition program regardless of race, color, national origin, sex (including gender identify and sexual orientation, age, disability, or other state-protected classes
- All participants must be treated in the equitable manner (e.g., seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval, and verification processes)



Customer Service (Cont'd.)

- Equal treatment is a fundamental purpose of the civil rights laws
- People must not be treated in a different or inferior manner because of their protected class
- All persons are included in meals, snacks, activities, and discussions
- Each person receives positive comments, as well as constructive education regarding mealtime, nutrition, manners, etc.
- In some cases, “same” treatment is not enough.
 - Example, individuals with disabilities may need a reasonable modification to ensure they have an equal opportunity to participate



Customer Service (Cont'd.)

- Children must not be separated in the cafeteria based on a protected class
 - Examples:
 - Students of about the same age are given about the same time to eat
 - Students whose first language is Spanish are not required to sit at a “Spanish-speaking only” table for meals
 - Boys are not seated at separate tables from girls



Customer Service (Cont'd.)

- Students within the same grade grouping must be offered the same selection of menu items in the same amounts regardless of their eligibility and protected classes, including when a student is offered
 - A selection of more than one type of meal that is claimed for reimbursement,
 - A variety of foods and fluid milk for choice within the meal requirements
- Examples
 - Boys and girls in the same grade are offered the same food, in the same amounts
 - Leftovers at the end of lunch period are offered to everyone (i.e., just not the boys, etc.)
 - Certain items are “saved” for all students, not just for specific students
- **The only exemption are children with disabilities that require a reasonable meal modification**



Customer Service (Cont'd.)

- USDA policy prohibits the denial of meals as a disciplinary action against any student who is enrolled in a school that participates in school nutrition programs including
 - Disciplinary actions that directly results in loss or denial of meals, and
 - Requiring a child to work for his/her meals
- The following are circumstances where meals may be denied
 - Disciplinary actions that are indirectly result in loss of meals (i.e., student is suspended from school)



Food For Thought

- In order to reduce the risk of a civil rights discrimination complaint, ask yourself the following questions each time an applicant and/or participant comes to your program for services
 - Am I treating this person in the same manner equal to how I treat others?
 - Have I informed this person of exactly what information I need to make a determination on the application?
 - Have I given this person the opportunity to ask questions?
 - Have I provided this person with the information in a language and format that they can understand?



Questions?



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