

Civil Rights and Complaint Procedures

U.S. Department of Agriculture Child Nutrition Programs



California Department of Education
Nutrition Services Division
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Introduction

The California Department of Education (CDE) Nutrition Services Division (NSD) provides the Civil Rights and Complaint Procedures to help agencies comply with the U.S. Department of Agriculture (USDA) child nutrition program (CNP) regulations, as required by the Food and Nutrition Service (FNS) Instruction 113-1.

The requirements contained in the procedures apply to all programs and activities receiving federal financial assistance for the CNPs, whether those programs and activities are federally funded in whole or in part (FNS Instruction 113-1, Page 3). Thus, when a state agency, local agency, or any other subrecipient agrees to administer FNS program services and benefits, they enter into a contractual agreement (i.e., federal/state agency agreement or a state agency/local agency agreement) to adhere to all laws, regulations, instructions, policies, and guidance related to nondiscrimination in program delivery (FNS Instruction 113-1, Page 4[C]).

Civil Rights Compliance in the Child Nutrition Programs

Each state agency, local agency, or any other subrecipient must ensure that it performs certain duties to both prevent and resolve all complaints related to programs and civil rights. Agencies must appoint a Civil Rights Coordinator to perform these duties. These duties include:

- Providing the name of the Civil Rights Coordinator, 504 Coordinator, and Title IX Coordinator (if different from the Civil Rights Coordinator)
- Providing mandatory civil rights training to all staff annually (FNS Instruction 113-1, Page 16[XI])
- Implementing procedures to determine and process civil rights complaints (FNS Instruction 113-1, Page 32[XVII][B])
- Implementing procedures to determine and process program related complaints
- Notifying the public, participants, and potential participants, upon request, of information about program requirements and the procedures for filing a complaint in English and/or in the appropriate language for persons with limited English proficiency (FNS Instruction 113-1, Page 13[IX])
- Ensuring that the public, participants, and potential participants are notified that a complaint can be filed anonymously or by a third party
- Developing a method to collect racial and ethnic data. The agency can use an applicant's voluntary self-identification to obtain racial and ethnic data.

Self-identification or self-reporting is the preferred method of obtaining characteristic data (FNS Instruction 113-1, Page 17[XII][A])

- Ensuring that the agency makes special meals available to participants with disabilities who have a medical statement on file documenting that their disability restricts their diet (Accommodating Children With Special Dietary Needs in the School Nutrition Programs, Page 5[II][A])
- Ensuring that participants with disabilities are not excluded from enjoying the benefits or services due to inaccessibility of facilities. Every part of a facility must be accessible to and usable by persons with disabilities (Rehabilitation Act of 1973, Section 504)
- The most current version of the federal nondiscrimination statement in a prominent location in all public information releases, publications, and on posters concerning nutrition program activities, except menus (FNS Instruction 113-1, pages 13[IX][A][3], 14[d], and 15[IX][B][4])
- Displaying And Justice For All posters in areas visible to program recipients, such as the food service area and sponsor's office, except in family day care homes (FNS Instruction 113-1, Page 15[B][1])
- Sending a public release announcing the availability of the CNPs and/or changes in the programs to public media and community/grassroots organizations (FNS Instruction 113-1, Page 15[IX][B][2])
- Providing appropriate translation services when a significant number of persons in the surrounding population have limited English proficiency (FNS Instruction 113-1, pages 9 and 10[VII])
- Establishing admission and enrollment procedures that do not restrict enrollment of minority persons or persons with disabilities. This includes preventing staff from incorrectly denying applications of minority persons and persons with disabilities, and ultimately ensuring that minority persons and participants with disabilities have equal access to all programs (FNS Instruction 113-1, Page 1[II][B] and [D], Americans with Disabilities Act 28, Title 2, Code of Federal Regulations, Part 35, Subtitle A and D, and FNS Instruction 113-1, Page 1[II][A] and [II][A])

Additionally, in order to meet federal civil rights requirements for CNPs, the NSD recommends that the Civil Rights Coordinator maintain a complaint log and work with the appropriate people to resolve the complaint.

The complaint as well as the complaint log must include, at a minimum, the following information:

- The name, address, and phone number or other means of contacting the complainant, such as an e-mail address (if not anonymous)
- The specific location and name of the entity delivering benefits

- The nature of the complaint or action that led to the charges being filed

If the nature of the complaint alleges discrimination, the NSD recommends that the Civil Rights Coordinator collect the following information and forward to USDA:

- The basis on which the complainant feels that discrimination occurred. In order to be considered a discrimination complaint, the complainant must feel discriminated against based on one or more of the protected classes
- The names, titles, and if known, addresses of persons who may have knowledge of the discriminatory action or situation
- The date(s) that the alleged discrimination occurred, or the duration of such action
- Forward all allegations of discrimination to the USDA National Office in Washington, D.C., at the address provided on page 8 of this document

Try to be as detailed as possible when logging information about the complaint. This will help resolve the situation in a more efficient manner.

Nondiscrimination Statement

As mentioned, agencies must include the most current version of the federal nondiscrimination statement in a prominent location in all public information releases, publications, and on posters concerning nutrition program activities, except menus. The current nondiscrimination statement can be found at the USDA's Civil Rights web page: <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement> (FNS Instruction 113-1, Page 15[IX][d][2]).

The USDA prohibits discrimination in all its programs and activities. However, CNP regulations do not cover all types of discrimination. The only protected classes covered under the CNPs are race, color, national origin, sex, age, or disability.

Public Notification and Grassroots Efforts

All FNS assistance programs must include a public notification system or grassroots effort. 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, and the procedure for filing a complaint (FNS Instruction 113-1, Page 13[IX]).

Particularly, the focus of the grassroots effort should be to target underserved populations and inform them of the availability of the CNPs. Certain organizations can help. A grassroots organization is any organization at the local level that interacts directly with eligible or potentially eligible participants or beneficiaries, such as an advocacy organization, community action program, civic organization, migrant group,

religious organization, neighborhood council, or other similar group (FNS Instruction 113-1, Page 5[V][P]).

Agencies should consider the following methods of communication when informing the public of available CNPs: the Internet, newspaper articles, radio or television announcements, flyers, or any other vehicle of communication deemed necessary to reach the intended recipients (FNS Instruction 113-1, Page 15[IX][B][2]).

Protected Racial and Ethnic Categories in the CNPs

The 2009–10 Civil Rights policy for CNPs established a two-question format for collecting racial and ethnic data from all program applicants and participants. Agencies must use separate categories when collecting and reporting ethnicity and race (FNS Instruction 113-1, Page 18[XII][A][4][a],[b]). Agencies must collect ethnicity first, and then offer respondents the option of selecting one or more racial designations. Recommended instructions accompanying the multiple responses for race should include one of the following: Mark One or More, or Select One or More, to encourage accurate information (FNS Instruction 113-1, Page 18 [XII][A][4]).

The minimum designations for ethnic and racial data collection are as follows:

Ethnicity

- Hispanic or Latino—A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term Spanish origin can be used in addition to Hispanic or Latino
- Not Hispanic or Latino

Race

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

- White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa

Discriminatory Behavior

Discriminatory behavior can sometimes be difficult to determine; therefore, it is important to keep in mind the protected classes for the CNPs when addressing potential discrimination. The following are general examples of prohibited discriminatory behavior to help agencies and Complaint Coordinators have a clearer understanding (FNS Instruction 113-1, Page 24[XIV][A][1-4]):

- Denying an individual or household the opportunity to apply for FNS program benefits or services on the basis of race, color, national origin, sex, age, or disability. CalWORKs and the Food Distribution Program on Indian Reservations (FDPIR) also prohibit discrimination on the basis of religion and political beliefs.
- Providing FNS program services or benefits in a different manner on the basis of race, color, national origin, sex, age, or disability, unless the difference is necessary to comply with nondiscrimination requirements, such as disability accommodations (this includes providing disability accommodations which includes dietary accommodation or physical assistance). CalWORKs and the FDPIR also prohibit discrimination on the basis of religion and political beliefs.
- Selecting members for planning and advisory bodies in such a way as to exclude persons from membership on the basis of race, color, national origin, sex, age, or disability. CalWORKs and the FDPIR also prohibit discrimination on the basis of religion and political beliefs.
- Selecting FNS program sites or facilities in a manner that denies an individual access to FNS program benefits, assistance, or services on the basis of race, color, national origin, sex, age, or disability. CalWORKs and the FDPIR also prohibit discrimination on the basis of religion and political beliefs.

Where to File a Complaint

To file a program or Civil Rights complaint, please contact one of the following agencies listed below:

Child Nutrition Programs
Civil Rights and Program Complaint Coordinator
California Department of Education
Nutrition Services Division
1430 N Street, Room 4503
Sacramento, CA 95814-2342
916-322-2135

Or

USDA, Director, Office of Adjudication
1400 Independence Avenue, Southwest
Washington, D.C. 20250-9410
866-632-9992
Federal Relay Service 800-877-8339 (English)
or 800-845-6136 (Spanish)

Note: The USDA will investigate and process complaints alleging discrimination.

All program complaints filed with the NSD are resolved at the state level. The NSD Complaint Coordinator logs the complaint, refers it first to the district for handling and if not resolved, then to the appropriate program or Field Services Unit, and tracks it through resolution. The NSD reserves the right to conduct unannounced site visits to determine the validity of all allegations.

Terminology Key

Complainant – Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a complaint

Complaint – A written or verbal statement alleging a violation of a federal or state law or regulation, which may include an allegation of unlawful discrimination

Complaint Coordinator – A staff member who is responsible for tracking all program complaints until resolution

Discrimination – The act of making a distinction in favor of, or against a person, intentionally or unintentionally, with policies, procedures, attitudes, and practices that denies equal access or limits services and benefits to those who are eligible

Discrimination Complaint – A complaint alleging discrimination based on race, color, national origin, sex, age, or disability

Program Complaint – A complaint alleging violation of federal or state laws or regulations concerning the program(s)

U.S. Department of Agriculture USDA Program Discrimination Complaint Form

Complainant Information			
First name	Middle Initial	Last Name	
Mailing Address			
Primary Phone Number	Alternate Phone Number	Email	
Best way to reach you: Mail Phone Email Other			
Representative Information			
Do you have a representative? <input type="checkbox"/> Yes <input type="checkbox"/> No		Do you have written authorization from representative? If so, please attach. <input type="checkbox"/> Yes <input type="checkbox"/> No	
First name		Last Name	
Mailing address			
Phone		Email	
Complaint Information			
<i>(attach additional pages and supporting documentation as needed)</i>			
1. Provide the name of the program you applied for (if known/applicable).			
2. Select the USDA agency that conducts the program or provides Federal financial assistance for the program. <input type="checkbox"/> FNS <input type="checkbox"/> FS <input type="checkbox"/> FSA <input type="checkbox"/> RD <input type="checkbox"/> NRCS <input type="checkbox"/> Other _____ <input type="checkbox"/> Unknown			
3. Date of recent alleged discrimination (mm/dd/yyyy)		4. Location and/or address of the office where discrimination occurred	
5. Who do you believe discriminated against you? Include the name(s) of person(s) involved in the alleged discrimination (if known).			
6. What happened to you? (please include dates of each allegation)			
7. It is a violation of the law to discriminate against you based on the following: race, color, national origin, religion, sex (including gender identity and expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, and political beliefs. (Not all bases apply to all programs). Reprisal is prohibited based on prior civil rights activity. I believe I was discriminated against based on:			
Remedies			
8. How would you like to see this complaint resolved?			
9. Have you filed a complaint about the incident(s) with another federal, state, or local agency or with a court?			
10. If yes, with what agency or court did you file?			11. If yes, when did you file? (mm/dd/yyyy)

 Complainant Signature Date Representative Signature Date

INSTRUCTIONS

PURPOSE: This form may be used if you believe you have experienced discrimination in any USDA program or activity, and you wish to file a complaint of discrimination. The form can be used to file a complaint of discrimination based on race, color, national origin, religion, sex (including gender identity and expression), sexual orientation, disability, age, marital status, family/parental status, income derived from public assistance program and political beliefs. If you need assistance filling out the form, you may call any of the telephone numbers listed at the bottom of the complaint form. You are not required to use the complaint form. You may write a letter instead. If you write a letter it must contain all of the information requested in the form and be signed by you or your authorized representative.

We must have a signed copy of your complaint. Incomplete information or an unsigned form will delay the process of your complaint

FILING DEADLINE: A program discrimination complaint must be filed within 180 days from the date you knew or should have known of the alleged discrimination unless the time for filing is extended by USDA. Complaints sent by mail are considered filed on the date the complaint was signed, unless the date on the complaint letter differs by seven days or more from the postmark date, in which case the postmark date will be used as the filing date. Complaint documentation or Complaint Forms sent by fax or mail will be considered filed on the day the complaint is faxed or mailed. Complaints filed after the 180-day deadline must include a 'good cause' explanation for the delay. For example, if:

1. You could not reasonably have been expected to know of the discriminatory act within the 180-day period;
2. You were seriously ill or incapacitated; or
3. The same complaint was filed with another Federal, state, or local agency and that agency failed to act on your complaint.

USDA POLICY: Federal law and policy prohibits discrimination against you based on the following: race, color, national origin, religion, sex (including gender identity and expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, and political beliefs. (Not all bases apply to all programs).

USDA will determine if it has jurisdiction under the law to process the complaint on the bases identified in the complaint and in the programs indicated in the complaint. Reprisal that is based on prior civil rights activity is prohibited.

OFFICE LOCATION WHERE DISCRIMINATION OCCURED: List the location and/or address of the office where discrimination occurred. If not known, this part of the form can be left blank.

WHERE TO FILE YOUR COMPLAINT: You may submit your completed form or letter to USDA by:

Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence, Ave, SW, STOP 9410, Washington, DC 20250-9410;
Fax: 1 (833) 256-1665 or (202) 690-7442; or
e-Mail: program.intake@usda.gov.

You may also visit our [website](https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint) at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>.

LEGAL INFORMATION

CONSENT: This USDA Program Discrimination Complaint Form is provided in accordance with the Privacy Act of 1974 (5 U.S.C. §552a), and is used to solicit information for processing complaints of discrimination. The United States Department of Agriculture's Office of the Assistant Secretary for Civil Rights (OASCR) requests this information pursuant to 7 CFR Part 15.

If the completed form is accepted as a complaint, the information collected during the investigation will be used to process your program discrimination complaint.

REPRISAL (RETALIATION) PROHIBITED: No Agency, officer, employee, or agent of the USDA, including persons representing the USDA and its programs, shall intimidate, threaten, harass, coerce, discriminate against, or otherwise retaliate against anyone who has filed a complaint of alleged discrimination or who participates in any manner in an investigation or other proceeding raising claims of discrimination.

PRIVACY ACT STATEMENT (5 U.S.C. § 552a)

AUTHORITIES: Collection of this information is authorized by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); and Sections 504 and 508 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 790-790f) and any other anti-discrimination statutes, rules and regulations.

PURPOSE: The information solicited on this form is used for processing complaints of discrimination under the statutes listed in the "Authorities" section of this notice. Any information obtained from this form will be maintained in our system of record.

ROUTINE USES: To respond to requests from individuals and agencies outside the Department (*such as the White House, Congress, and the Equal Employment Opportunity Commission*) regarding the status of a complaint. More information on the routine uses for the system can be found in the System of Records Notice USDA-2021-0007 records maintained by the OASCR.

DISCLOSURE: Providing this information is voluntary. Failure to complete this form may lead to a delay in processing of the complaint or rejection of the complaint due to an inadequate information to continue processing.

PAPERWORK REDUCTION ACT STATEMENT

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires us to inform you that this information is being collected to ensure that your complaint contains all the information required to process it fully. The Office of the Assistant Secretary for Civil Rights will use the information to process your discrimination complaint.

Response to this request is voluntary. The information you provide on this form will only be shared with persons who have an official need to know, and will be protected from public disclosure pursuant to the provisions of the Privacy Act, (5 U.S.C. § 552a(b)). The estimated time required to complete this form is 60 minutes. You may send comments regarding the accuracy of this estimate and any suggestions for reducing the time for completion of the form to the U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, Mail Stop 9410, Washington, DC 20250. An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB Control Number. **The OMB Control Number for this form is 0508-0002.**