

# Civil Rights for Child Nutrition Programs

---

Office of Child Nutrition

The background of the slide is a collage of legal and educational symbols. At the top left, a wooden gavel rests on a dark wooden surface. To its right is a blue metal filing cabinet. Below the gavel, a dark brown book with the words "CIVIL RIGHTS" in large, gold, serif capital letters is visible. A silver fountain pen lies on the wooden surface to the left of the book. The text "Child nutrition program sponsors who receive federal assistance are required to comply with civil rights laws" is centered in a white sans-serif font within a solid orange horizontal band.

Child nutrition program sponsors who receive federal assistance are required to comply with civil rights laws

- **National Level:** United States Department of Agriculture, Food Nutrition Service (USDA -FNS)
- **Regional Level:** Southeast Regional Office (SERO)
- **State Level:** Mississippi Department of Education-Office of Child Nutrition (MDE-OCN)





The child nutrition programs improve nutritional quality of meals and snacks:



Food  
requirements



Meal  
reimbursements



Training &  
monitoring



Fair & equal  
treatment



## Goal of Civil Rights in Child Nutrition Programs

- To provide fair and equitable treatment to all program applicants and participants according to the specific laws and regulations that provide for the protected bases for each nutritional assistance program.

# Goals



The goals of Civil Rights include:

- Eliminating barriers
- Providing equitable treatment
- Ensuring applicants and participants understand their rights and responsibilities
- Respect and dignity

Food & Nutrition Service	<b>FNS INSTRUCTION</b>	NUMBER 113-1
	U.S. DEPARTMENT OF AGRICULTURE 3101 PARK CENTER DRIVE ALEXANDRIA, VA 22304-1500	

INFORMATION FOR: All FNS Employees and State Agencies

Civil Rights Compliance and Enforcement – Nutrition Programs and Activities

#### TABLE OF CONTENTS

	PAGE
I PURPOSE.....	1
II AUTHORITY.....	1
III POLICY.....	2
IV APPLICABILITY.....	3
V DEFINITIONS.....	3
VI RESPONSIBILITIES.....	8
VII LIMITED ENGLISH PROFICIENCY.....	9
VIII EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS.....	12
IX PUBLIC NOTIFICATION.....	13
X ASSURANCES.....	16
XI CIVIL RIGHTS TRAINING.....	16
XII DATA COLLECTION AND REPORTING.....	17
XIII COMPLIANCE REVIEWS.....	19
XIV RESOLUTION OF NONCOMPLIANCE.....	24
XV COMPLAINTS OF DISCRIMINATION.....	29
XVI GUIDELINES FOR PROCESSING CIVIL RIGHTS COMPLAINTS.....	30

DISTRIBUTION: EAD, EFS, ES	MANUAL MAINTENANCE INSTRUCTIONS: This Instruction Replaces FNS Instructions 113-1, Rev 1, 113-2, 113-3, 113-4, 113-6, 113-7 and 113-8. Remove all FNS Instructions listed here and replace with this Instruction.	RESPONSIBLE FOR PREPARATION AND MAINTENANCE: CRD	Page 1 11/8/05
-------------------------------	---	---	-------------------

FORM FNS-620 (1-00) Previous editions obsolete  
Electronic Form Version Designed in JetForm 8.1 Version

# FNS Instruction 113-1

The purpose of FNS Instruction 113-1 is to:

- Establish and convey policy;
- Provide guidance and direction; and
- Ensure compliance with and enforcement of the prohibition against discrimination.



# Civil Rights Training

Training is required so that people involved at all levels of administration of programs that receive Federal financial assistance understand civil rights related laws, regulations, procedures, and directives.

State agencies are responsible for training local child nutrition administrators on an **annual basis**.

Local agencies are responsible for training their managers and staff who interact with applicants or participants on an **annual basis**.



## Required Topics


The annual training must include, but not be limited to, the following training topics in the FNS Instruction 113-1:

- ☐ Collection and Use of Data
- ☐ Effective public notification systems
- ☐ Complaint procedures
- ☐ Compliance review techniques
- ☐ Resolution of noncompliance
- ☐ Requirements for reasonable modifications for persons with disabilities
- ☐ Requirements for language assistance
- ☐ Conflict resolution
- ☐ Customer service

# Documenting Training

- Attendance
- Agenda





A difference in treatment that makes a distinction of one person or group of persons from others, either intentionally or through neglect or by actions or a lack of actions based on a protected class

## **Discrimination**





## 4 D's of Discrimination

- **Denied** benefits
- **Delayed** benefits
- Treated **Differently**
- Given **Disparate** treatment



# What is a Protected Base?

- Any person or group of people who have characteristics for which discrimination is prohibited based on a law, regulation, or executive order.
- What are the protected bases?

# Protected Bases



Child Nutrition protected bases are:

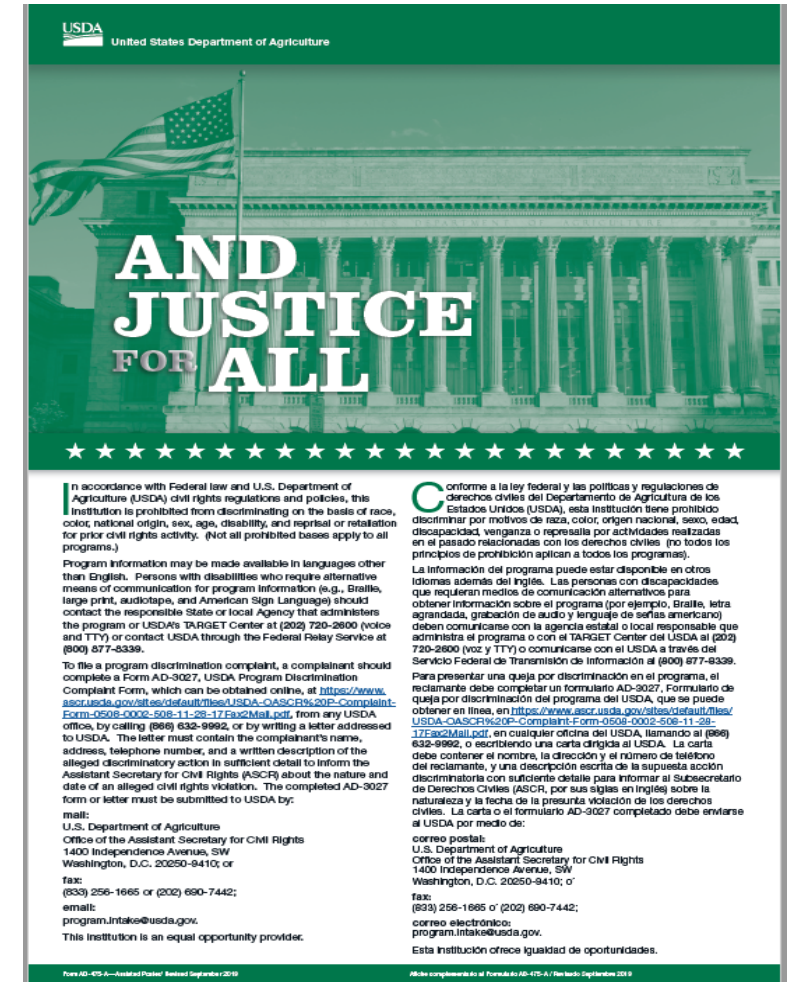
1. Race
2. Color
3. National Origin
4. Age
5. Disability
6. Sex



# “And Justice for All” Poster

16

- **MUST** be displayed where benefits are issued/received.
- Reproductions must be at equal size (11x17)
- If copied as black & white, use Form AD-475-A
- Revised May 2022\*





## Must use correct version for CN Programs



### Two Purposes:

1. States that the USDA prohibits discrimination in all of its programs and activities
2. It provides information on how to file a Civil Rights complaint

The nondiscrimination statement should be included in full on all print and non-print materials that are considered vital to program access and participation

Income eligibility forms

Notices of free and reduced price eligibility or ineligibility

Notices which impact benefits and accessibility

Posters

Informative materials or literature provided to the public

Websites



This institution is an equal  
opportunity provider.

## Correct Version

This institution is an equal opportunity provider.

## Incorrect Examples

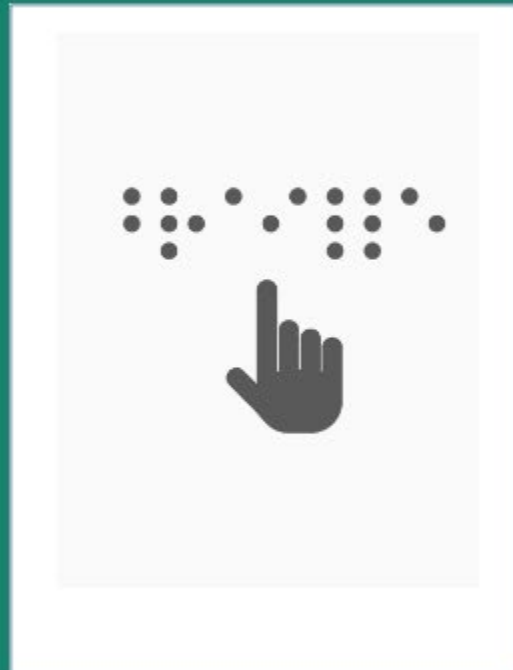
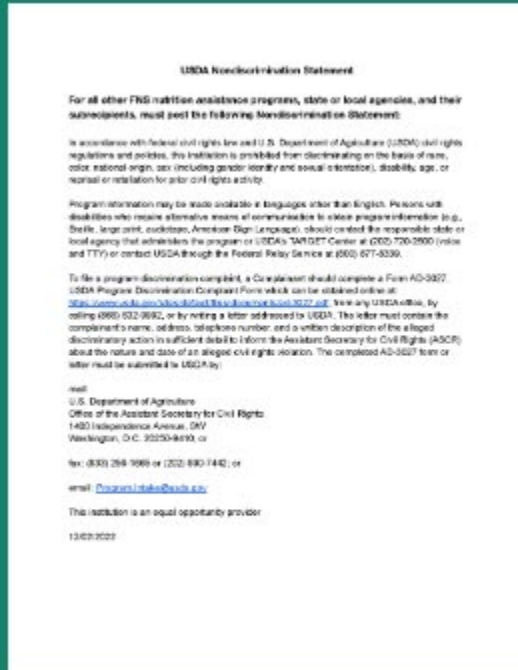
This institution is an equal opportunity ~~employer~~.

~~Yoknapatawpha Child Care~~ is an equal opportunity provider.

~~USDA~~ is an equal opportunity provider.







# Collection and Use of Data

State and Local agencies are required to obtain data by race and ethnicity.

Self identification or self-reporting is the preferred method of obtaining characteristic data.

Applicants/participants may not be required to furnish information on their race or ethnicity.

Visual observation is NO LONGER an allowable method for Program operators to use during the collection of race or ethnicity data. (CACFP 11-2021, SFSP 07-2021)

## Effective Public Notification System

The purpose of the public notification system is to inform applicants, participants, and potentially eligible persons of:

- Program Availability
- Complaint Information
- Non-discrimination statement
- Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for Limited English Proficiency (LEP) persons





## RIGHT TO FILE

anyone alleging discrimination has the right to file a complaint within 180 days of the alleged discriminatory action. *(The Sec. of Agriculture or designee may waive the 180-day filing deadline for good cause. The reason justifying the waiver must be documented in writing in the complaint file.)*



## ACCEPTANCE

complaints, written or verbal, must be forwarded to the appropriate FNS Regional CR Director within 5 working days. Anonymous complaints will be handled as any other to the extent feasible based on available information.



## FORMS

any OCR may develop complaint forms, but the use of such forms must not be a prerequisite for acceptance of a complaint.

---

**Verbal Complaints** – the person to whom the allegations are made must write up the elements of the complaint for the complainant. Every effort should be made to have the complainant provide the following information:

---

Complainant Name, address & phone (email or other contacting means)

---

Specific location and name of Agency delivering the service or benefit

---

Nature of the incident or action that led the complainant to feel discriminated

---

The protected base (prohibited basis or protected class) the complainant feels discriminated against

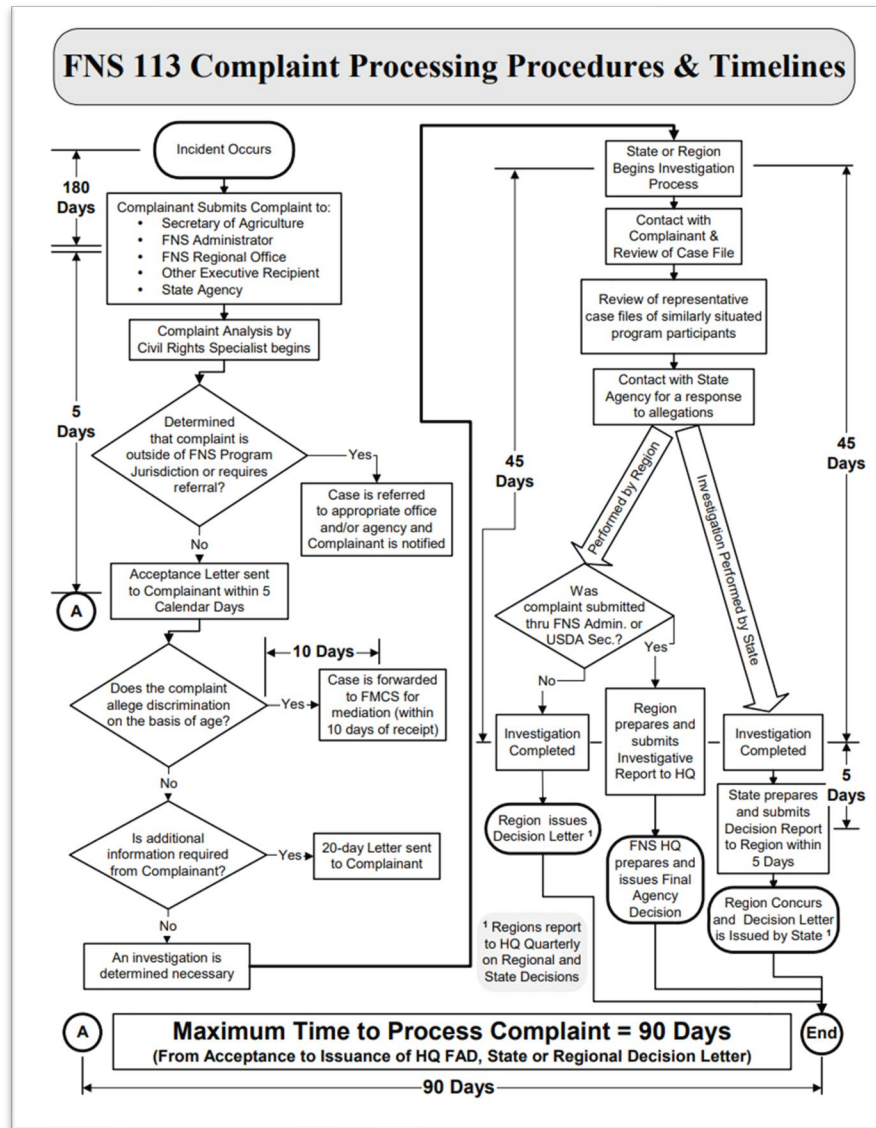
---

Names, phone numbers, titles, addresses of persons who may have knowledge of the discriminatory action

---

The date which the alleged discriminatory actions occurred or the duration of such actions

---



- Flow Chart
- Available on last Page of FNS 113-1



Must advise the reviewed entity in writing of findings and recommendations

Federal or State reviewer must secure information as necessary to make the determination of compliance

Routine reviews conducted as required by program regulations

Indicators of possible Civil Rights concerns may include:

- -unusual fluctuations of racial / ethnic groups in service area
- -number of discrimination complaints filed against the Agency
- -unresolved findings from previous reviews
- -information from grassroots orgs, advocacy, State officials, etc.

# How are reviews conducted?

28



USDA civil rights program



State Agencies



Sponsors and facilities



Facilities

## Pre-Award Review

- Civil Rights compliance will be reviewed during an institution's application to participate in Child Nutrition programs.

## Post-Approval Review

- Administrative Reviews
- Compliance Reviews
- USDA Management Evaluations

# What to expect during a review?

31

- Do printed materials contain the current nondiscrimination statement?
- Is the “And Justice For All” poster displayed appropriately?
- Are program informational materials available to all?
- Is data on race and ethnicity collected appropriately?
- How are applicants and participants advised of their right to file a civil rights complaint of discrimination?
- Are reasonable modifications appropriately made for people with disabilities?



## Resolution of Noncompliance

**Noncompliance** - Factual finding that a Civil Rights requirement is not being adhered to by a program operator

**Achieving Voluntary Compliance** – if found noncompliant, immediate steps to become compliant must be taken

**Termination / Suspension of Assistance** – any action must be limited to the Agency found noncompliant and limited to the particular program which noncompliance was found



# Requirements for Reasonable Modifications for Persons with Disabilities

The Americans with Disabilities Act (ADA) of 1990 and the ADA Amendments Act of 2008 prohibit discrimination and ensure equal opportunity for persons with disabilities in employment, State and local government services (Title II), public accommodations, commercial facilities, and transportation (Title III).

Section 504 of the Rehabilitation Act of 1973 also prohibits discrimination on the basis of handicap in programs or activities receiving federal financial assistance.



- A person may be considered to have a disability using the following criteria:
  - A physical or mental impairment that substantially limits one or more major life activities of an individual.
  - A record of such an impairment.
  - Being regarded as having such an impairment.

# Definition of Disability

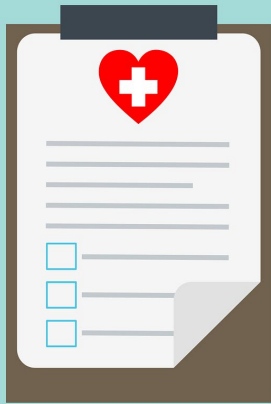
- A person may have a disability if one or more major life activities are impacted. The following are examples of major life activities but are not a comprehensive list:



Caring for Oneself	Lifting
Performing Manual Tasks	Bending
Seeing	Speaking
Hearing	Breathing
Eating	Learning
Sleeping	Reading
Walking	Concentrating
Standing	Thinking
Communicating	Working

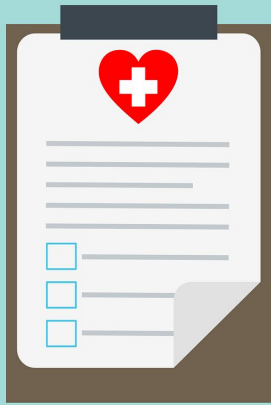


Participants with disabilities must be able to participate in and receive benefits from programs that are available to participants without disabilities



Sponsors are **required to make substitutions** to meals for participants with disabilities that restrict their diet.





Medical statements should include:

- Information about the physical or mental impairment
- What must be done to accommodate the disability
- The foods to be omitted
- The foods to be substituted



If requested menu modifications related to disabilities can be accommodated within the Program meal pattern...



Failure to provide LEP individuals access to federally assisted programs and activities may be a **form of discrimination** on the basis of national origin

## Requirements for Language Assistance

Title VI of the Civil Rights Act of 1964 and its regulations require recipients of federal financial assistance, i.e., SAs, local agencies, or other sub-recipients, to take reasonable steps to ensure “**meaningful access**” to information and services they provide for individuals with limited English proficiency (LEP).

## Reasonable Steps: Factors

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee
- The frequency with which LEP individuals encounter the program
- The nature and importance of the program, activity, or service provided by the program to people's lives
- The resources available to the grantee/recipient and costs



## Meaningful Access

**Meaningful access** is accomplished by providing *reasonable, competent, qualified, accurate and effective* language services to individuals with LEP when accessing recipient programs and activities.

# Providing Meaningful Access

Meaningful access can be provided in a number of ways:

- Sharing materials and services between sponsors
- Training bilingual staff to act as interpreters and translators
- Telephonic and video conferencing interpretation services
- Using qualified translators and interpreters to translate documents
- Centralizing interpreter and translator services or the use of qualified community volunteers



# Limited English Proficiency (LEP)

Federal regulations also prohibit discrimination of LEP persons on the ground of national origin (7 CFR Part 15).

USDA LEP Policy Guidance can be found at:

<https://www.fns.usda.gov/cr/limited-English-proficiency-lep>





# Conflict Resolution

**Conflict** - when one or both parties are not able to secure what they need or want and are actively seeking their own goals.



## Causes of Conflict

- Misunderstanding
- Personality clashes
- Competition for resources
- Authority Issues
- Lack of cooperation
- Differences over methods of style
- Low performance
- Value or goal differences



## DESTRUCTIVE CONFLICT

- Diverts energy
- Deepens differences in values
- Polarizes groups
- Destroys the morale of people
- Reinforces poor self-concepts

## CONSTRUCTIVE CONFLICT

- Reveals issues of importance, resulting in issue clarification
- Builds cohesiveness
- Causes reassessment by allowing for examination of procedures or actions
- Increases individual involvement



# Strategies to Resolve Conflict

49



Remain calm.



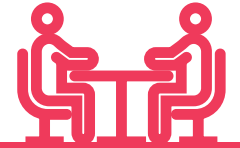
Enter the process with an open mind.



Don't prejudge others.



Don't over-react.



Attack the problem, not the person; and listen to their concerns.

## Alternate Dispute Resolution (ADR)

Alternate Dispute Resolution (ADR)

Use of a neutral 3<sup>rd</sup> party to resolve informally a complaint of discrimination using various techniques (e.g., fact finding, mediation, facilitation, etc.).



# Customer Service



- Be professional.
- Be courteous.
- Listen intently and take notes if needed.
- Repeat back what you have been told to ensure correctness.
- Follow up with corrective action if required.
- Remember . . . You **are** providing a service!

