

Community Nutrition Programs
Child and Adult Care Food Program (CACFP)

[Guidance Memorandums](#) [Translated Documents](#)

Applies To: Family Day Care Home Sponsoring Organizations in the CACFP

Revision Date: March 2016

I. Authority

Under federal law, no person in the United States shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient of Federal financial assistance from the U.S. Department of Agriculture (USDA) or any agency thereof.

These particular laws pertain to participants having access to CACFP benefits or other USDA Child Nutrition Programs and not to employment rights by agencies participating in the USDA Child Nutrition Programs.

The pertinent laws and regulations include:

- A. **Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-6**, which prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15, Subpart A and Subpart C.
- B. **Americans with Disabilities Act (28 CFR Part 35, Title II, Subtitle A)**, which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.
- C. **Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et. seq.)**, which prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15 a.
- D. **Section 504 of the Rehabilitation Act of 1973**, which prohibits discrimination based on disability; and USDA Implementing Regulation, 7 CFR Part 15 b.
- E. **Age Discrimination Act of 1975 (45 CFR Part 91)**, which prohibits discrimination based on age in programs or activities receiving Federal financial assistance.
- F. **The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and Department of Justice (DOJ) Memorandum dated January 28, 1999**, entitled, "Policy Guidance Document -- Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs."
- G. **Civil Rights Restoration Act of 1987**, which clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes to ensure nondiscrimination in all programs and activities of a recipient, whether those programs and activities are federally funded or not.
- H. **The Food Stamp Act of 1977**, as amended.
- I. **Enforcement of Title VI of the Civil Rights Act of 1964 -- National Origin Discrimination Against Persons With Limited English Proficiency, 65 F.R. 50123, August 16, 2000**. This is the Federal Register cite for Department of Justice guidance for Executive Order 13166, Improving Access To Services For Persons With Limited English Proficiency, signed on August 11, 2000.

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- J. **USDA Departmental Regulation 4330-2, Activities Receiving USDA Financial Assistance**, ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the U.S. Department of Agriculture.
- K. **USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations**, implements executive branch policy that, within the framework of constitutional church-State guidelines, religiously affiliated (or “faith-based”) organizations should be able to compete on an equal footing with other organizations for USDA assistance.
- L. **Richard B. Russell National School Lunch Act (NSLA) 42 USC 1751 et seq., Child Nutrition Act of 1966 (42 U.S.C. § 1771 et seq.)**
- M. **7 CFR Part 226**
- N. **7 CFR Parts 15, 15a, and 15b**
- O. **FNS Instruction 113-1**

II. Sponsor Civil Rights Requirements

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

1. Indicate what action will be taken to assure that minority populations have an equal opportunity to participate in the CACFP.
2. Describe efforts to contact minority and grass roots organizations about the opportunity to participate.
3. List all federal agencies which are providing support to your organization.

B. “...And Justice for All” Poster

Display the 11” X 17” size nondiscrimination poster “...And Justice for All” provided by DPI in a prominent place within the sponsor’s administrative building(s).

C. Parental Notification: *Building for the Future Flier*

All providers must inform parents or guardians about the program and its benefits when their children are enrolled in the day care home. The *Building for the Future* flier included in this guidance memorandum must be used as the parent notification document.

[Building for the Future Flier](#)

Sponsors must provide a completed copy of this flier to all of their providers for posting or distribution. The sponsor’s contact information must be printed to the left of the State agency contact information:

- Name of sponsor
- Name of the sponsor’s staff person to contact with questions about the program
- Address
- Telephone number of sponsoring organization

The provider may post this completed flier in a location visible to families upon entering the home or he/she may provide copies directly to the individual families.

→ **Sponsors must monitor providers to ensure that the flier is properly made available to families.** Repeated intentional failure to make this flier available to families is grounds for declaring the provider seriously deficient.

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

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E. Translated Materials

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

DPI has Spanish and Hmong translations available at:

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

The following documents have been translated:

- *Building for the Future* Flier
 - ❖ Translations in Arabic, Chinese, French, Haitian-Creole, Japanese, Khmer, Lao, Portuguese, Russian, Thai, and Vietnamese are also available upon request.
- Household Size-Income Statement Forms and Parent/Provider Letters (Attachments 1, 2 and 3)
- CACFP Meal Pattern - 1-12+ Year Olds Chart
- Infant Meal Pattern Chart
- Infant Meal Notification Letter
- Wisconsin WIC Program Fact Sheet
- Eating and Feeding Evaluation: Children/Youths with Special Dietary Needs Form
- *Healthy Bites: A Wisconsin Guide for Improving Childhood Nutrition Resource* (Spanish Only)

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

USDA's prototype HSIS form and Parent/Provider Letter are translated into additional languages, such as French, Greek, and Arabic.

These USDA translated documents are available at:

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

Before giving out the USDA - HSIS form and Parent/Provider Letter for a specific language to a provider, review the English version first to determine which specific home provider form and letter is needed. *The document you will download for each language includes all of the forms and letters intended for the various components of the CACFP (home providers, group child care centers, and adult care centers), together within one document.*

F. News Media Release

Effective June 2014, DPI will be issuing an annual state-wide news media release for all participating FDCH sponsoring organizations. Sponsors are no longer required to issue an annual news media release. The News Media Release template form is no longer available for use.

G. Nondiscrimination Statement with Complaint Filing Procedure

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

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

Web Pages:

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

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The authorized statement cannot be modified.

- The statement must be printed verbatim, the format cannot be changed, and the font should be the same as the majority of the font used in the document.
- If the material is too small for allowing space to print the full statement (#1 below), the document must, at minimum, include the authorized short version (#2 below), in font size no smaller than the rest of the document's text.

1. Full Statement:

The authorized statement reads as follows in English:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, 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](#), (AD-3027) found online at:

http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) Fax: (202) 690-7442; or

(3) Email: program.intake@usda.gov

This institution is an equal opportunity provider.

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The authorized statement reads as follows in Spanish:

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

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

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

(1) **Correo:** U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) **Fax:** (202) 690-7442; o

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

Esta institución es un proveedor que ofrece igualdad de oportunidades.

2. Short Version

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

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

In English: This institution is an equal opportunity provider.

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

H. Data collection

1. Ethnic and Racial Data Information

Annually, collect ethnic and racial data of children enrolled at each participating day care home. This data can be collected at any point in time by using various methods.

A sample *Ethnic and Racial Data Form* with instructions on how this data must be compiled is included within this guidance memorandum:

[Sample Ethnic and Racial Data Form](#)

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Visual identification may be used to determine ethnicity and racial categories or one may ask the parents to identify the ethnicity and racial categories of their child. For collecting purposes, a child may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging to. Parents may be asked to identify their child's ethnicity and racial groups only after it has been explained, and they understand, that the collection is strictly for statistical reporting and will have no effect on determination of eligibility for benefits.

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

Record Retention of Ethnic and Racial Data:

The annually collected data must be retained on file in accordance with the three-year record retention rule (the current Federal Fiscal Year plus the three prior years).

→ **This data may be annually collected by other means than DPI's sample *Ethnic and Racial Data Form*.** For example, sponsors may collect this information using the enrollment forms completed by the parents/guardians of the enrolled children at each provider's home, as long as the required ethnicity and racial data is collected, as specified above. This information can be maintained electronically within sponsor's database system; electronically maintained data must be annually compiled into a report, as required, and then retained on file.

2. Potential Eligible Beneficiaries

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

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

I. Equal Access to Food Service

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

All attending children must be enrolled in the CACFP:

Providers must enroll all children into the CACFP who are in attendance at their home for child care and are required to be counted within the capacity/ratio requirements in accordance with the licensing and/or certification rules; this includes children considered as "drop-in" and infants or children with special dietary needs whose parents are supplying all foods for their children's meals served while in the provider's care.

→ **The provider cannot require parents/guardians to supply any foods (or formula) for the meals served to infants and children who have special dietary needs resulting from a disability. However, the parents/guardians may choose to supply foods.** Refer to *Guidance Memorandum L – CACFP Meal Pattern Requirements* for further information on the requirements for supplying food for infants and children with special dietary needs.

J. Equal Access to Child Care Services

Allow all children access to child care services and facilities regardless of any protected class.

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K. Prohibition of Separation by Gender during Meal Services

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

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

Exemptions to the Prohibition on Gender-Separated Meal Service:

Exemptions may be approved by the State agency, DPI, without further USDA-FNS approval in the following circumstances:

1. Meal service at facilities directly affiliated with a religion that dictates gender separation.
2. Meal service at juvenile correctional facilities where gender separation is necessary to prevent safety risks.
3. Meal service at facilities where gender separation is part of their normal operations, i.e. gender specific summer camps or afterschool programs.

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

L. Annual Civil Rights Training

1. State Agency Training for Sponsoring Organizations

DPI will provide the required civil rights training to the FDCH sponsors at the annual administrative training sessions.

2. Sponsoring Organization Training for Staff and Providers

a. Sponsors are responsible for annually training the following individuals:

- Members of their staff who interact with program applicants or participants and those persons who supervise these staff
- Their sponsored providers

b. Sponsors must cover specific subject matter with staff and their providers.

USDA requires the annual civil rights training to cover the following topics:

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

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c. **Civil Rights Training Materials and Records:**

i. **Annual Staff Training:**

Training Materials:

Sponsors must use DPI's *Civil Rights Training* PowerPoint (or its hand-out) intended for completing the annual sponsor staff training, which covers each of the required topics specified above.

- [DPI's Civil Rights Training PowerPoint for Sponsor Staff](#)
- [DPI's Civil Rights Training PowerPoint for Sponsor Staff in Hand-out Form](#)

If sponsors choose to not use DPI's *Civil Rights Training* PowerPoint or its hand-out for completing their annual staff training, all required topics, as specified above, must be covered within the training materials.

Annual Staff Training Records:

In order to demonstrate that the annual civil rights training is completed by all staff, the following records must be retained on file:

- ❖ Listing of staff names who completed the required civil rights training;
- ❖ The date(s) of completion by all staff; and
- ❖ A copy of the materials used for each annual training (i.e. copy of PowerPoint or hand-out)

The *Civil Rights Training Attendance Form* included within this guidance memorandum may be used to record the training dates and attending staff:

[Civil Rights Training Attendance Form \(for Sponsor Staff\)](#)

ii. **Annual Provider Training:**

Training Materials:

Sponsors must annually train all providers on the specified civil rights topics (section L2b above), as applicable to them.

→ **The civil rights training topics may be part of the training materials covering the other required topics for the annual training of providers.** (Refer to *Guidance Memorandum E – CACFP Training Requirements* for the overall training requirements.)

The civil rights topics covered within the provider training materials must include, but are not limited to:

- Offering meals and snacks in a nondiscriminatory manner to all protected classes;
- Providing translated language assistance to enrolled children's families who do not speak or understand English;
- Providing all required food substitutions for serving foods to meet the standard CACFP meal patterns (1-12 year olds and infants), as specified by the children's licensed physician, to children whose special dietary needs are the result of a disability;
- Supplying at least one type of iron fortified infant formula and all baby foods for meals served to infants, unless otherwise decided by each parent;
- Distributing the *Building for the Future* flier to the families of all enrolled children;
- Referring all civil rights complaints to the sponsor;

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- Including the nondiscrimination statement with the complaint filing procedure (as printed above in section G) within publications which state or imply participation in the CACFP, such as in the provider's policies, newsletters, and any printed and online advertisements.

Annual Records for Provider Training:

In order to demonstrate that the annual training is completed by all participating providers, the following records must be retained on file:

- ❖ Listing of providers who completed the required training;
- ❖ The date(s) of completion; and
- ❖ A copy of the materials used for the annual provider training

III. Complaints

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

A. Procedure for Filing Complaints of Discrimination

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

USDA Program Discrimination Complaint Form:

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

Civil Rights Complaints Procedure:

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

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

B. Acceptance of Complaints

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

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

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It is necessary that the information be sufficient to determine the identity of the agency or individual toward which the complaint is directed, and to indicate the possibility of a violation. Anonymous complaints should be handled as any other complaint.

C. Verbal Complaints

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

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

D. Investigation

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

E. Closure

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

IV. Assurance

It is required that assurances of compliance with the Civil Rights Act of 1964 be given by agencies and entities administering the CACFP. It is in the Permanent Agreement between DPI and sponsors of the CACFP.

V. Resolution of Noncompliance

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

VI. Review

The state agency will review institutions for compliance with the civil rights requirements as a part of their routine review process.