

# Civil Rights and Child Nutrition Programs

by  
Hawaii  
Child Nutrition Programs



# What are Civil Rights?



# Purpose

- ◆ To ensure benefits of CNPs are available to all eligible people in a nondiscriminatory manner.
- ◆ All SFAs participating in NSLP and receiving federal \$\$ must implement civil rights requirements.

# Civil Rights Laws

- ◆ **Title VI** of Civil Rights Act of 1964-  
Race, Color, National Origin
- ◆ **Title IX** of Education Amendment of  
1972-Sex
- ◆ **Section 504** of Rehabilitation Act of  
1973- Disability
- ◆ Age Discrimination Act of 1975- Age
- ◆ Civil Rights Restoration Act of 1987

# Heart of Title VI

- ◆ No person in the United States shall, on ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving Federal financial assistance.

# Areas of Compliance

- ◆ Training (Annually)
- ◆ Assurances
- ◆ Public Notification System
- ◆ Data Collection
- ◆ Limited English Proficiency
- ◆ Reasonable Accommodation of Persons with Disabilities

# Areas of Compliance (continued)

- ◆ Customer Service
- ◆ Conflict Resolution
- ◆ Complaint Procedure
- ◆ Compliance Review
- ◆ Resolution of Noncompliance

# Civil Rights Training

All staff should:

- ◆ Receive training on compliance annually
- ◆ Identify complaints
- ◆ Handle complaints in accordance with procedures
- ◆ Understand basic right of individual to file complaint

**What  
is  
Discrimination?**

# Discrimination

Different treatment that makes a distinction of one person or a group of persons from others; either intentionally, by neglect or by actions or lack of actions, based on "protected classes."

# CNPs have six “protected classes”

- ◆ Race
- ◆ Color
- ◆ Sex
- ◆ Age
- ◆ National Origin
- ◆ Disability



# Discrimination

When an individual or group of individuals are:

- ◆ **Delayed** receiving benefits or services others receive
- ◆ **Denied** benefits or services others receive
- ◆ Treated **Differently** than others to their disadvantage
- ◆ Given **Disparate** treatment for something which does not seem discriminatory, but has a discriminatory impact.

# Nondiscrimination

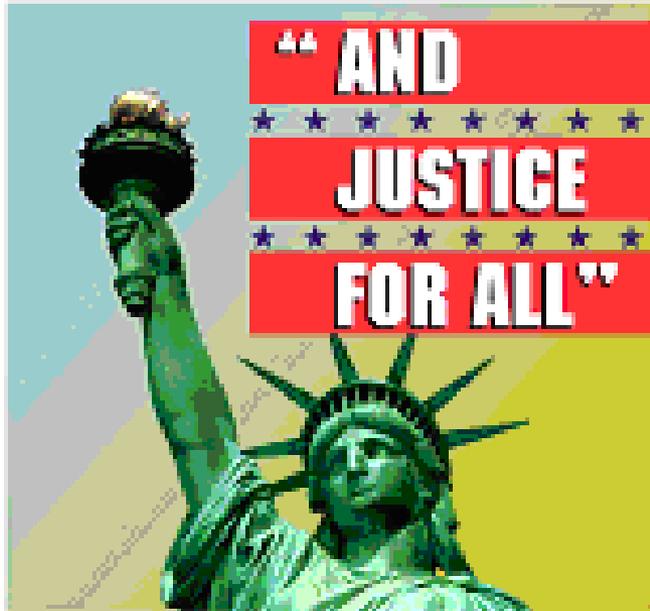
- ◆ Is NSLP application distributed and processed in a nondiscriminatory manner?
- ◆ Is application accessible to all?
- ◆ Is distribution done in a way that is fair and does not discriminate within the six protected classes?
- ◆ Does meal service allow equal participation regardless of race, color, sex, age, national origin, or disability?

# Assurances

**To qualify for Federal assistance,** entity must provide written assurance that CNP will operate in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.

In "Agreement Between School Food Authority and the Department of Education"

# “And Justice For All”



The United States Department of Education (USDOE) and the State of Oregon prohibit discrimination in all USDOE programs and activities on the basis of race, color, national origin, sex, religion, age or disability.

To file a complaint of discrimination, write USDOE, Director, Office of Civil Rights, Room 9000-01, 1955 M Street, NW, and Independence Avenue, NW, Washington, D.C. 20038 or email OCR at [ocr@ed.gov](mailto:ocr@ed.gov) or (800) 725-0191. Submit a fee if you have a complaint against a private institution. USDOE and the State of Oregon are equal opportunity providers and employers.

El Departamento de Educación de los EE. UU. (USDOE), agencias estatales y el estado de Oregón, prohíben la discriminación en todos sus programas, actividades y servicios en base a raza, origen nacional, sexo, religión, edad, discapacidad.

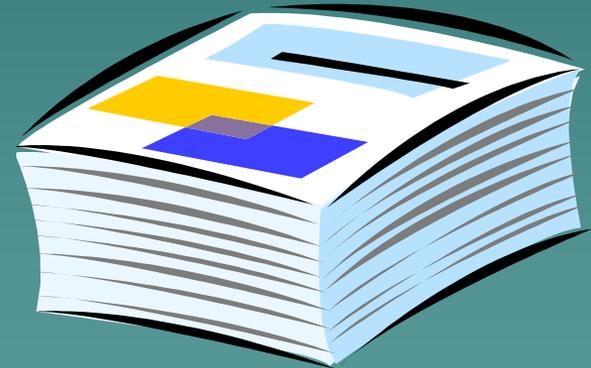
Para presentar una queja sobre discriminación, escriba a USDOE, Director, Oficina de Derechos Civiles, Room 9000-01, 1955 M Street, NW, and Independence Avenue, NW, Washington, D.C. 20038 o envíe un correo electrónico a [ocr@ed.gov](mailto:ocr@ed.gov) o llame al (800) 725-0191. Presente una tarifa si tiene una queja contra una institución privada. USDOE y el Estado de Oregón son proveedores e empleadores que ofrecen igualdad de oportunidades.

Oregon Department of Education/Child Nutrition Programs • March 2019

Poster must be displayed in a prominent area where participants and potential participants have ready access

# Materials requiring nondiscrimination statement include:

- ◆ F/R Applications
- ◆ Menus
- ◆ Employee Handbook
- ◆ Newsletters
- ◆ Flyers
- ◆ Websites
- ◆ Brochures
- ◆ Advertisement



# Nondiscrimination Statement Versions

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Ave., S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.

- ◆ **"This institution is an equal opportunity provider."** This, at the very least, must be on all documents pertaining to school meals programs.

# Public Notification

- ◆ All sites must provide materials in appropriate translations concerning availability and nutritional benefits of meals in CNPs.
- ◆ USDA NSLP translations web site:  
<http://www.fns.usda.gov/cnd/frp/frp.process.htm>
- ◆ All CNPs must display 11x17 "And Justice For All" nondiscrimination poster in a prominent place.

# Public Notification (continued)

- ◆ CNPs must make program information available to public upon request.
  - Free & Reduced Application, Press Release
- ◆ Upon initial visit, parents must be given specific program information pertinent to receipt of benefits through CNPs.
  - Free & Reduced Application
- ◆ Nondiscrimination statement and a procedure for filing a complaint must be readily available to households participating in program.

# Data Collection and Maintenance

- ◆ Ensure that racial/ethnic data are collected annually and maintained on file for 6 years + current year for each site
- ◆ Two Categories shall be used when collecting and reporting race and ethnicity
  - 1.) **Ethnicity**- Hispanic or Latino
  - 2.) **Race**-
    - American Indian or Alaskan Native
    - Black or African American
    - Native Hawaiian or Other Pacific Islander
    - White
    - Asian

# Data Collection and Maintenance

(continued)

- ◆ Complete Civil Rights Ethnic Data Report (Form O-4c) annually by October 31.
- ◆ Parents are asked to voluntarily identify racial/ethnic group of children.
- ◆ Visual identification may be used by SFA to determine a child's racial/ethnic category
  - (Residential Child Care Institution)

# Limited English Proficiency

If a significant number or proportion of eligible population needs service or information in a language other than English to be informed of or to participate, SFA shall take reasonable steps to provide appropriate language translations to such persons.

# Limited English Proficiency

(continued)

Consider ....

- ◆ Number of *Limited English Proficiency* individuals participating in CNP
- ◆ Frequency of contact
- ◆ Nature and importance of Program
- ◆ Resources available

# Reasonable Accommodation of Persons with Disabilities

- ◆ **Disability:** 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 Section 504 of the Rehabilitation Act/Americans with Disabilities Act and Part B of Individuals with Disabilities Education Act (IDEA)
  - Examples: Orthopedic, visual, speech, hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; food anaphylaxis (severe food allergy); metabolic diseases (such as diabetes)

# What is the school's responsibility to children with disabilities?

- ◆ Provide facilities for participants with disabilities
  - Examples: accessible parking lots, entrances and exits, halls, elevators, restrooms, service animals, alternative arrangements for service
- ◆ Provide appropriate information in alternative formats for persons with disabilities
  - Example: Braille program materials, sign language interpreters
- ◆ Provide food substitutions for students with disabilities when documented in writing by a licensed physician

# Customer Service

- ◆ All students must be allowed equal opportunities to participate in CN programs regardless of race, color, national origin, sex, age, disability
- ◆ All participants must be treated in the same manner  
(i.e. seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval and verification processes)

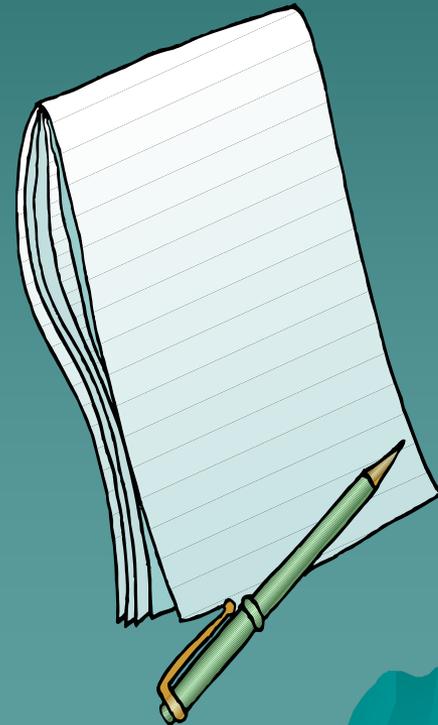
# Conflict Resolution

- ◆ USDA recommends using an Alternative Dispute Resolution (ADR) program
  - ADR: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques

# Recognizing a Civil Rights Complaint

# Complaints of unequal treatment can be:

- Verbal
- In writing
- Observed



# Handling a Complaint

- ◆ SFA Civil Rights Official enters complaint on log (*Form O-4b*)
- ◆ Complete *Civil Rights Complaint Form, Form O-4a* in the Civil Rights Procedures Log
- ◆ Resolve at SFA level.
- ◆ Submit complaint report to OHCNP within 5 working days.

# How soon does a complaint need to be filed?

Complainant has up to 180 days from  
alleged incident to file a complaint.



# Civil Rights Complaint Procedure

Civil Rights complaint received by SFA  
(verbal or written)

Civil Rights complaint documented  
in *Civil Rights Complaint Log* (Form O-4b)

SFA/School gives complainant *Civil Rights  
Complaint Form* (Form O-4a) **or**  
SFA assists complainant to complete Form O-4a

If complainant returns *Civil Rights Complaint Form* to SFA,  
SFA forwards *Civil Rights Complaint Form* to HCNP  
within 5 working days

# Civil Rights Complaint Log

- ◆ Must be dated
- ◆ Keep for current + 6 years, even if no complaints have been received

# CNP Civil Rights Procedure Manual

- ◆ JFA poster on front cover
- ◆ Sections for
  - 1) SFA CR complaint procedure
  - 2) CR complaint forms and log (make copies)
  - 3) Nondiscrimination procedures from *Free and Reduced Policy (Form O-4)*.
  - 4) FNS Instructions 113-1
  - 5) Training forms – Sign-in sheet, agenda, etc.
- ◆ SFA Civil Rights Coordinating Official must sign complaint log.

# Civil Rights Complaint Form

- ◆ *CR Complaint Form* must be readily available at all sites for all staff.
- ◆ Make every attempt to help complainant complete *CR Complaint Form*.
- ◆ If household cannot fill out complaint form, SFA is responsible to document complaint.



# Compliance Review Purpose

To ensure that CNPs are in compliance  
with Civil Rights Requirements

# Noncompliance

- ◆ There are NO “minor” or “major” categories of noncompliance. All instances of non-compliance are considered equally.

**No matter the level or severity of noncompliance, it must be reported and it must be corrected.**

# Examples of Noncompliance

- ◆ Denying an individual or household the opportunity to apply for FNS program benefits or services on the basis of race, color, sex, age, national origin, or disability
- ◆ Providing FNS program services or benefits in a dissimilar manner on the basis of race, color, sex, age, national origin, or disability
  - Example: Serving lunch to an African American child but serving a snack/modified meal to an Asian American child

# Examples of Noncompliance

- ◆ 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 the six protected classes (race, color, national origin, etc.)
  - Example: Serving breakfast in some schools but not at schools located in areas with a high proportion of children with disabilities or a high proportion of minority students

# Resolution of Noncompliance

- ◆ If noncompliance is indicated, a corrective action plan must be implemented immediately to achieve voluntary compliance within 60 days
- ◆ **Corrective Action Plan:** a plan describing the agency's actions to be taken to resolve noncompliance with civil rights requirements

# Common CRE Review Findings

- *And Justice for All* poster is not visible where parents and the general public can read it
- Nondiscrimination statement is missing from CNP documents
- *Civil Rights File* is not complete
  - Log, complaint process, training sign-in sheet

# Civil Rights “Must Do List”

- ❑ Offer all CNPs in a nondiscriminatory manner so that all students have equal access to school meals.
- ❑ Complete Civil Rights Ethnic Data Report (Form O-4c) annually by Oct 31.
- ❑ Train staff annually on Civil Rights compliance.
- ❑ Implement Complaint Procedure.

# Civil Rights “Must Do List”

(continued)

- ❑ Make available CNP Civil Rights procedures and forms.
- ❑ Prominently display the “*And Justice for All*” poster.
- ❑ Place nondiscrimination statement on all printed CNP materials available to public including web site.



*Thank You*

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Ave., S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.