



Civil Rights

CACFP Annual Mandatory Training
Program Year 2022



**Hawaii
Child
Nutrition
Programs**



What are Civil Rights?



EQUALITY FOR ALL... ALWAYS!

by Celso Júnior

Civil rights are the rights of individuals to receive equal treatment (and to be free from unfair treatment or "discrimination") in a number of settings; including education and employment.

Civil Rights and Child Nutrition Programs

- **Benefits of Child Nutrition Programs (CNP) must be available to all eligible people in a nondiscriminatory manner.**
- **All Institutions participating in a Child and Adult Care Food Program (CACFP) and receiving federal \$\$ must implement civil rights requirements.**

History of Civil Rights Laws

- Title VI of Civil Rights Act of 1964- Prohibits discrimination on the basis of race, color and national origin.
- Title IX of Education Amendment of 1972- Prohibits discrimination on the basis of sex.
- Section 504 of Rehabilitation Act of 1973- Disability
- Age Discrimination Act of 1975- Prohibits discrimination on the basis of age.
- Civil Rights Restoration Act of 1987- Recipients of federal funds must comply with civil rights laws in all areas, not just programs receiving federal funding.



What is Discrimination?



Discrimination is the unjust or prejudicial treatment of different categories of people or things, especially on the grounds of race, color, age, sex, national origin, or disability.



Discrimination

The 4
“D”s

When an individual or group of individuals are:



EQUALITY FOR ALL... ALWAYS!
by Celia J. J. J.

- Delayed in 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.

Discrimination Examples

- ▶ **Refusing** enrollment based on disability
- ▶ Failure to provide **reasonable accommodation**
- ▶ Serving meals at a **time, place, or in a manner** that is discriminatory
- ▶ Failing to provide **non-English** materials



Areas of Compliance

- Annual Training
- Assurances
- Public Notification System
- Data Collection
- Reasonable Accommodation of Persons with Disabilities
- Limited English Proficiency
- Customer Service
- Conflict Resolution
- Complaint Procedure
- Compliance Review
- Resolution of Noncompliance

CACFP Meal Compliance

- CACFP meal benefit forms (MBF) must be distributed and processed in a nondiscriminatory manner.
- Meal benefit forms must accessible to all.
- Distribution of MBF's must be done in a way that does not discriminate within the six protected classes.
- Does meal service allow equal participation regardless of race, color, sex, age, national origin, or disability?

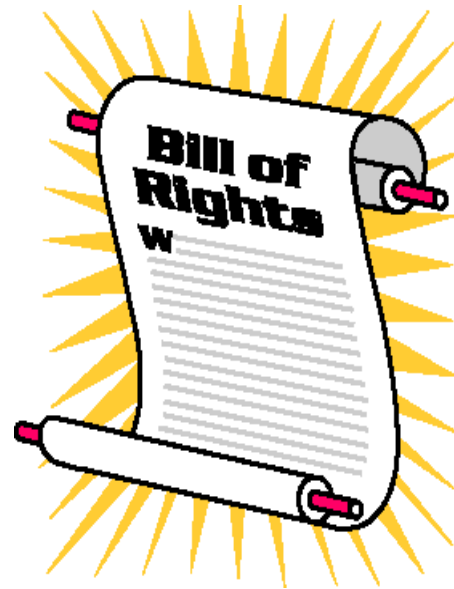
Civil Rights Training

All staff should:

- ❖ Receive training on compliance annually
- ❖ Be able to identify complaints
- ❖ Handle complaints in accordance with procedures
- ❖ Understand basic right of individual to file complaint

CNPs have six “Protected Classes”

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

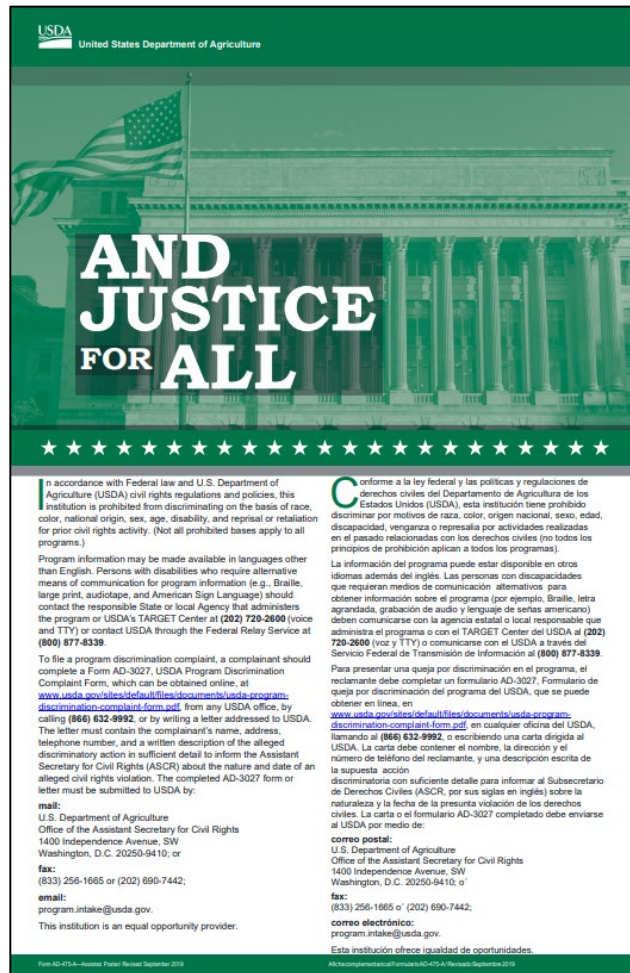


Assurances

- ❖ To qualify for Federal assistance, the Institution must provide written assurance that CNP will operate in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.
- ❖ Covered in “Agreement Between the Institution and the Department of Education, Hawaii Child Nutrition Programs”



“And Justice For All”



Poster must be displayed in prominent areas where participants and potential participants will be able to view it.

Nondiscrimination Statement Long Version (part 1)

In accordance with Federal 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, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.) Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and 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.

Nondiscrimination Statement

Long Version (part 2)

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 www.usda.gov/sites/default/files/documents/usda-programdiscrimination-complaint-form.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: mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; or fax: (833) 256-1665 or (202) 690-7442; email: program.intake@usda.gov.

This institution is an equal opportunity provider

Nondiscrimination Statement Short Version

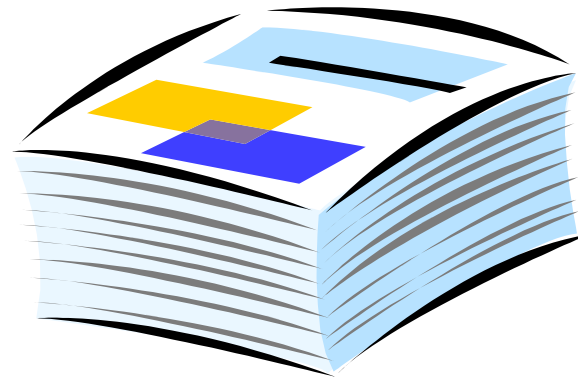
**“This institution is an equal
opportunity provider.”**

Use short version on all documents pertaining to CACFP
where space is limited.

Long version is preferred when there is allowable space.
e.g. Family Handbooks

Materials requiring nondiscrimination statement include:

- ❖ Meal Benefit Forms
- ❖ Menus
- ❖ Employee Handbook
- ❖ Newsletters
- ❖ Flyers
- ❖ Websites
- ❖ Brochures
- ❖ Advertisement



Public Notification

- ▶ All sites must provide materials in appropriate translations concerning availability and nutritional benefits of meals in CNPs.
- ▶ 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 the public upon request.

Free & Reduced Price Press Release

Upon initial visit, parents must be given specific program information pertinent to receipt of benefits through CNPs.

Meal Benefit Form

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 3 years + current year for each site
- ▶ Two Categories shall be used when collecting and reporting: race and ethnicity



Data Collection and Maintenance

1.) Ethnicity-

► Hispanic/Latino

- ▣ A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin - regardless of race

or

► Non-Hispanic/Non-Latino



Data Collection and Maintenance



2. Racial Categories

- ▶ **Black or African American** – A person having origins in any of the black racial groups of Africa
- ▶ **White** - A person having origins in any of the original peoples of Europe, the Middle East, or North America
- ▶ **Asian** - A person having origins in any of the peoples of the Far East, Southeast Asia, or the Indian subcontinent, including: Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam



Data Collection and Maintenance



2. Racial Categories

- ❑ **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands

- ▶ **American Indian or Alaskan Native** - A person having origins in any of the original peoples of North America (including Central America) who maintains tribal affiliation or community attachment

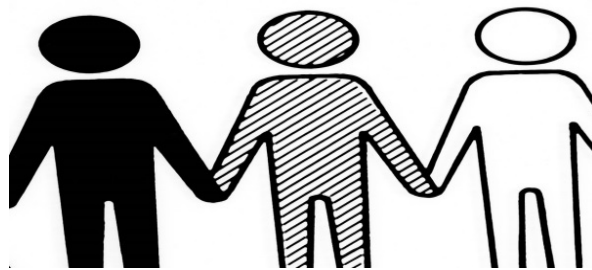


**Hawaii
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Data Collection and Maintenance

(continued)

- ❖ **Complete Civil Rights Ethnic Data Report annually by October 31.**
- ❖ **Parents are asked to voluntarily identify racial/ethnic group of children on MBF.**



Visual Observation

- ▶ As of May 2021, Visual Observation of Race/Ethnicity:
NO LONGER ACCEPTABLE
- ▶ Currently awaiting further guidance

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, the institution 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

Limited English Proficiency (continued)



- ▶ Enrollment statements
- ▶ Meal Benefit Forms
- ▶ Menus
- ▶ Informational brochures
- ▶ Letters to families and notifications
- ▶ Nondiscrimination statement
- ▶ Free Translations - see <http://www.freetranslation.com>

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)

Expanded Definition of Disability

- ▶ Revises “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

Expanded Definition of Disability

➤ Major Life Activities

- ▶ Seeing, hearing
- ▶ Walking
- ▶ Speaking, learning, reading
- ▶ Eating
- ▶ Breathing

New Category of Major
Life Activities



➤ Major Bodily Functions

- ▶ Digestive
- ▶ Immune system
- ▶ Respiratory
- ▶ Circulatory
- ▶ Neurological / Brain



What is the center's responsibility to participants 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 or State licensed health care professional.





Special Dietary Needs: Medical Statement Form

► DISABILITY

- Sponsors are **required** to make substitutions for participants with food allergies deemed as **disabilities**
- A **disability** may **only** be determined and signed by a **licensed physician (M.D. or D.O.), physician assistant, nurse practitioner, or dentist**
- Signed form must also indicate appropriate substitutions



Customer Service

- ❖ All participants 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 meal benefit approval and verification processes)

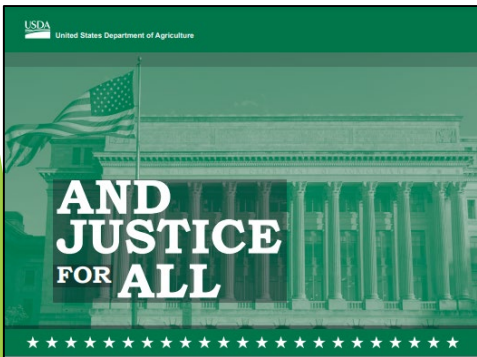


Conflict Resolution

- ▶ 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



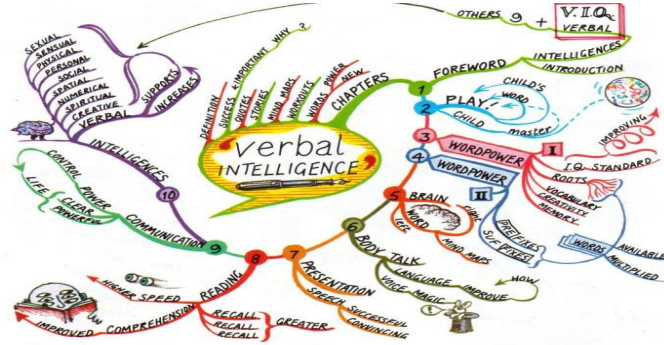
Recognizing a Civil Rights Complaint





Unequal Treatment

- ▶ Verbal
- ▶ In writing
- ▶ Observed



Handling a Complaint

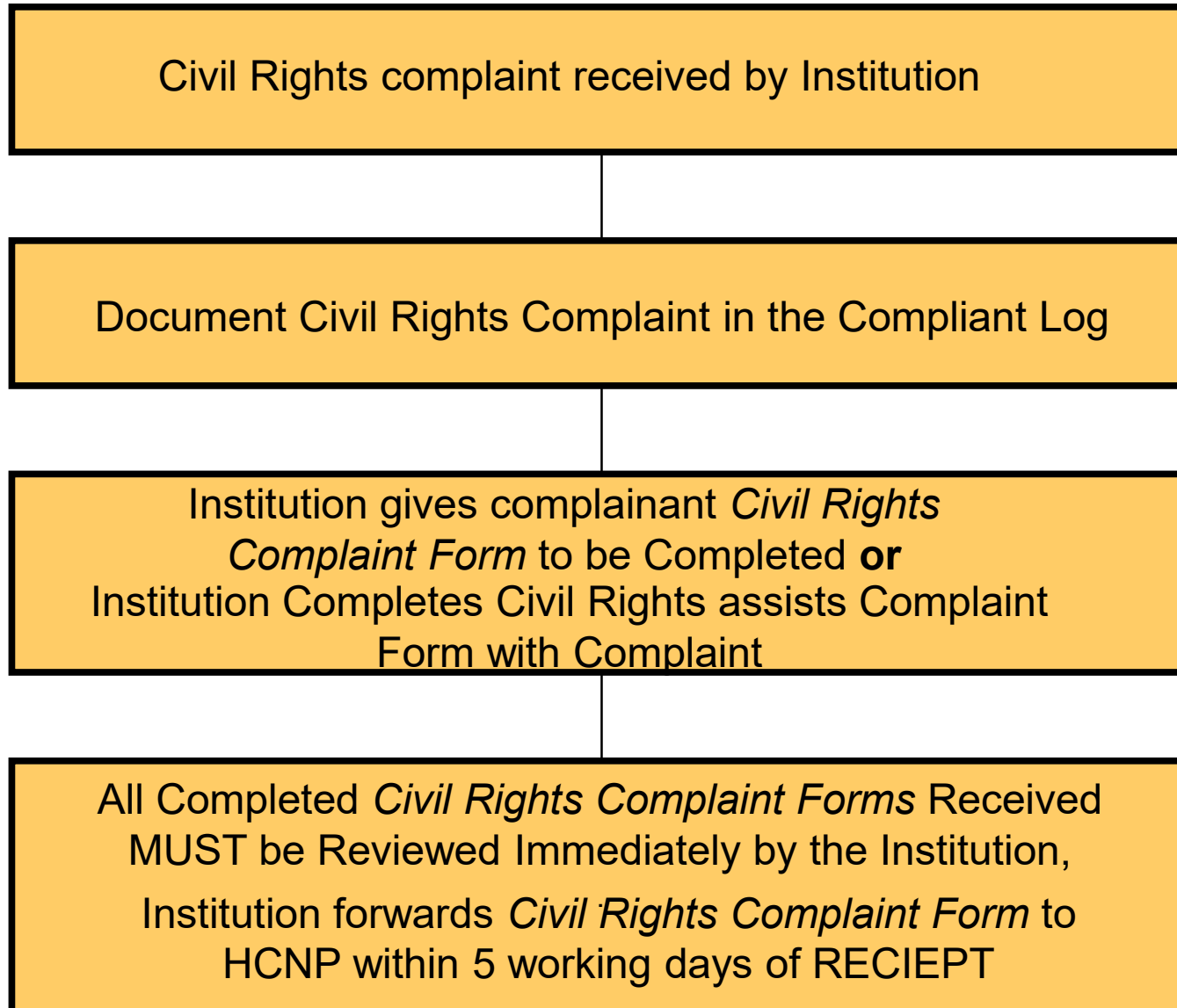
- ❖ CACFP Civil Rights Official enters complaint on log.
- ❖ Complainant completes *Civil Rights Complaint Form*
- ❖ Resolve at the site level.
- ❖ Submit complaint report to HCNP within 5 working days.

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 Log

- ❖ **Must be dated**
- ❖ **Keep for current plus three years, even if no complaints have been received**



SAMPLE Civil Rights Complaint Log

CR COMPLAINT LOG									
Sponsor: <u>A Great Sponsor</u>								FY <u>12/13</u>	
Date complaint received	Name of person who took complaint	Name and address of complainant	Explanation of event - include date of incident (use additional sheets if needed)	Type of Discrimination (circle one)	Date SDE notified	Date instructions or other information rec'd from SDE	Date(s) investigation took place	Who investigated?	Date complaint resolved
				Race/Color National Origin Sex Age Disability					
				Race/Color National Origin Sex Age Disability					
				Race/Color National Origin Sex Age Disability					

No Complaints 6/5/2013

CR COMPLAINT LOG									
Sponsor: <u>A Great Sponsor</u>								FY <u>13/14</u>	
Date complaint received	Name of person who took complaint	Name and address of complainant	Explanation of event - include date of incident (use additional sheets if needed)	Type of Discrimination (circle one)	Date SDE notified	Date instructions or other information rec'd from SDE	Date(s) investigation took place	Who investigated?	Date complaint resolved
				Race/Color National Origin Sex Age Disability					
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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 the household cannot fill out the complaint form, the center staff is responsible to assist the family to complete the document.

CNP Civil Rights Procedure Manual

❖ Sections for

- 1) Institution CR complaint procedure
- 2) CR complaint forms and log (make copies).
- 4) FNS Instructions 113-1
- 5) Training forms - Sign-in sheet, agenda, etc.

❖ Civil Rights Coordinating Official must sign complaint log.

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

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 meals on site to toddlers and preschoolers. Parents of infants must bring in formula and food for their infant.

Resolution of Noncompliance

- ❖ If noncompliance is indicated, a corrective action plan must be implemented immediately to achieve voluntary compliance within 30 days
- ❖ **Corrective Action Plan:** a plan describing the agency's actions to be taken to resolve noncompliance with civil rights requirements

Common Review Findings

- ❖ *And Justice for All* poster is not visible where families 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 CACFP meals.
- ❖ Complete Civil Rights Ethnic Data Report annually by October 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.



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Thank You

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