



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

RICK SNYDER  
GOVERNOR

MICHAEL P. FLANAGAN  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION

**FOOD SERVICE**

**ADMINISTRATIVE POLICY NO. 4  
SCHOOL YEAR 2012-2013**

**SUBJECT:** Civil Rights Compliance Requirements for Participation in the National School Lunch Program, School Breakfast Program, Afterschool Snack Program, and Special Milk Program

**DATE:** August 1, 2012

Civil rights are the nonpolitical rights of a citizen: the rights of personal liberty guaranteed to United States Citizens by the 13<sup>th</sup> and 14<sup>th</sup> amendments to the United States Constitution and Acts of Congress. All School Food Authorities (SFAs) participating in the National School Lunch Program (NSLP), School Breakfast Program, Afterschool Snack Program, and/or Special Milk Program must on a yearly basis:

1. Ensure effective public notification systems by prominently displaying the United States Department of Agriculture (USDA) "And Justice for All" poster and using the nondiscrimination statement to convey equal opportunity in all photos and other graphics on websites and publications that are used to provide program related information.

The updated nondiscrimination statement is:

*In accordance with Federal law and U.S. Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.*

*To file a complaint alleging discrimination, write USDA, Office of Adjudication, 1400 Independence Avenue, SW, Washington D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.*

**STATE BOARD OF EDUCATION**

JOHN C. AUSTIN – PRESIDENT • CASANDRA E. ULBRICH – VICE PRESIDENT  
NANCY DANHOF – SECRETARY • MARIANNE YARED MCGUIRE – TREASURER  
RICHARD ZEILE – NASBE DELEGATE • KATHLEEN N. STRAUS  
DANIEL VARNER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
www.michigan.gov/mde • (517) 373-3324

2. Provide information in other languages for the availability and benefits of the NSLP to individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
3. Provide appropriate information in alternative formats for persons with disabilities.
4. Include the nondiscrimination statement on all appropriate Food and Nutrition Service (FNS) publications, websites, posters, and informational materials including the instructions for filing a discrimination complaint with the Secretary of Agriculture.
5. Guarantee that all children have equal access to services and facilities at the site, regardless of race, color, national origin, sex, age, or disability.
6. Establish and maintain systems for collecting and reporting racial and ethnic data. FNS requires recipients of federal financial assistance to ask all program applicants and participants to identify all the racial categories that apply. Respect for individual dignity should guide the process for collecting data on race and ethnicity. Respondent self-identification or self-reporting is the preferred method. If the applicant refuses, the institution staff will code data based on perception. All material must be filed in an area with restricted access and retained for three years.
7. Follow complaint procedures that are established to accept complaints or grievances based on race, color, national origin, sex, age, or disability. Participants must be advised of their right to file a complaint and the complaint procedures. If there are complaints, the institution must alert the Michigan Department of Education (MDE).
8. Complete Civil Rights review techniques by:
  - Evaluation of compliance during an Administrative Review, conducted by MDE every three years.
  - Complete an annual review of all school/institution buildings to ensure civil rights compliance.
9. Conduct civil rights training annually for all current/new staff responsible for administering the NSLP, including frontline staff.

10. Conduct civil rights training for staff. Specific subject areas include:

- *Collecting and Using Data* - Data is being collected on ethnicity and race. Parent self-declares. If he/she refuses, institution staff will code based on perception. All material must be filed in an area of restricted access and retained for three years.
- *Effective Public Notification Systems* - Display the "And Justice for All" poster, use the nondiscrimination statement, provide information in other languages and alternative formats as needed, and convey equal opportunity in all photos and other graphics on websites, publications, etc.
- *Complaint Procedures* - Procedures must be established to accept complaints or grievances based on race, color, national origin, sex, age, or disability. Participants must be advised of their right to file a complaint, how to file a complaint, and the complaint procedures. If there are complaints, the institution must alert MDE.
- *Compliance Review Techniques* - Ensure civil rights requirements are being followed during the review process.
- *Resolution of Non-Compliance* - Inappropriate actions must cease. A corrective action plan is required and appropriate procedures must be implemented.
- *Requirements for Reasonable Accommodation of Persons with Disabilities* - Entrances and exits to accommodate the disabled, Braille signage, and alternative arrangements for service must be available, when needed.
- *Requirements for Language Assistance* - Bilingual materials and translation must be provided.
- *Conflict Resolution* - Use alternative dispute resolution techniques when necessary. Treat others with respect.
- *Customer Service* - Treat others the way they want to be treated (or at least be aware of what that means).

For more information on the USDA Civil Rights Laws, Regulations, Executive Orders and related Other Guidance, visit <http://www.fns.usda.gov/cr/crregulation.htm>.

### **Additional Resources**

The Food and Nutrition Instruction 113-1 Civil Rights Compliance and Enforcement Nutrition Programs and Activities is available at <http://www.fns.usda.gov/cr/Documents/113-1.pdf>.

“And Justice for All” posters can be downloaded at <http://www.fns.usda.gov/cr/justice.htm>.

Limited English Proficiency (LEP) information can be found at <http://www.lep.gov/>.

The School Nutrition Programs website at [www.michigan.gov/schoolnutrition](http://www.michigan.gov/schoolnutrition) contains the following resources related to civil rights:

- *Civil Rights Fact Sheets and Link to USDA* - Scroll down to Guidance and click on Civil Rights.
- *Reference Manual* - Scroll down to Training, click on School Meals Program Requirements Training Manual, click on *Tab 6: Civil Rights*.
- *Webcasts* - Scroll down to Training, click on School Meals Program Requirements Training, click on *Session 6: Civil Rights*.

Questions regarding this Administrative Policy may be directed to the School Nutrition Programs Unit by email to [MDE-schoolnutrition@michigan.gov](mailto:MDE-schoolnutrition@michigan.gov).

## CIVIL RIGHTS

1. Include the following nondiscrimination statement on all materials relating to the National School Lunch Program, School Breakfast Program, Afterschool Snack Program, or Special Milk Program that are available to the public. This includes menus, free and reduced-price meal/milk eligibility documents, and any other materials distributed.

*In accordance with Federal law and U.S. Department of Agriculture (USDA) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.*

*To file a complaint alleging discrimination, write USDA, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.*

2. Display the "And Justice for All" poster in a conspicuous place in each approved site and the administrative office.
3. Train staff on civil rights annually. Specific subject areas include:
  - COLLECTING AND USING DATA: Data is being collected on ethnicity and race. Parent self-declares. If they refuse, institution staff will code based on perception. All material must be filed in an area of restricted access and retained for three years.
  - EFFECTIVE PUBLIC NOTIFICATION SYSTEMS: Display the "And Justice for All" poster, use the nondiscrimination statement, provide information in other languages and alternative formats as needed, and convey equal opportunity in all photos and other graphics on websites, publications, etc.
  - COMPLAINT PROCEDURES: Procedures must be established to accept complaints or grievances based on race, color, national origin, sex, age, or disability. Participants must be advised of their right to file a complaint, how to file a complaint, and the complaint procedures. If there are complaints, the institution must alert MDE.
  - COMPLIANCE REVIEW TECHNIQUES: Ensure civil rights requirements are being followed during review process.
  - RESOLUTION OF NON-COMPLIANCE: Inappropriate actions must cease. A corrective action plan is required and appropriate procedures must be implemented.
  - REQUIREMENTS FOR REASONABLE ACCOMMODATION OF PERSONS WITH DISABILITIES: Entrances and exits to accommodate the disabled, Braille signage and alternative arrangements for service must be available, when needed.
  - REQUIREMENTS FOR LANGUAGE ASSISTANT: Bilingual personnel and materials must be provided depending on need, resources available, and cost.
  - CONFLICT RESOLUTION: Use alternative dispute resolution techniques when necessary. Treat others with respect.
  - CUSTOMER SERVICE: "Treat others the way they want to be treated (or at least be aware of what that is)."

For more information on the USDA Civil Rights Laws, Regulations, Executive Orders and related Other Guidance, go to: <http://www.fns.usda.gov/cr/crregulation.htm>.



United States  
Department of  
Agriculture

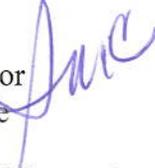
Food and  
Nutrition  
Service

3101 Park  
Center Drive

Alexandria, VA  
22302-1500

TO: FNS Regional Administrators  
FNS Deputy Regional Administrators  
FNS Regional Civil Rights Directors  
FNS Program Directors

THROUGH: Robin Bailey  MAY - 4 2012  
Acting Associate Administrator  
Management, Technology, and Finance  
& Chief Operating Officer  
Food and Nutrition Service

FROM: Anita Cunningham  MAY - 3 2012  
Acting Civil Rights Director  
Food and Nutrition Service

SUBJECT: Guidance on Prohibition of Separation by Gender in Schools  
During School Meals

The attached memorandum is guidance to all FNS staff, State administering agencies, and school authorities that receive FNS funding. This guidance ensures consistency and provides clarification regarding separation by gender during the service of meals in schools that participate in the Child Nutrition Programs.

Attachment

## MEMORANDUM

UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)

FOOD AND NUTRITION SERVICE (FNS)

### GUIDANCE ON THE PROHIBITION OF SEPARATION BY GENDER DURING THE SERVICE OF MEALS IN THE CHILD NUTRITION PROGRAMS

#### PURPOSE

- a. This memorandum sets forth guidance to all FNS Regional Offices, State administering agencies and school food authorities that receive federal funding from FNS, Child Nutrition Programs under USDA. The Child Nutrition Programs (CNPs) include: the National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Adult Care Food Program, and the Summer Food Service Program. These programs receive federal funds for providing free, reduced price and paid program meals. Under USDA statutes and regulations, authorities may not separate children by gender in the service of program meals that fall under the aforementioned CNPs. In addition, this requirement applies to children who do not consume program meals, but are in a facility that receive federal funds from FNS.
- b. This guidance provides clarification to the statutory requirements that prohibit separating children by gender in any facility receiving federal funds appropriated for providing meals under the CNPs. Facilities are defined as schools, institutions, child care centers, day care homes and summer feeding sites.

#### AUTHORITY

- a. Title IX of the Education Amendment Act of 1972, 20 U.S.C. 1681, *et seq.*
- b. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*
- c. The Richard B. Russell National School Lunch Act (NSLA), as amended, 42 U.S.C. 1760(j), *et seq.*
- d. The Child Nutrition Act of 1966 (CNA), 42 U.S.C. 1771, *et seq.*
- e. 7 C.F.R. 15a.12
- f. 7 C.F.R. 15a.31
- g. FNS Instruction 113-1

## BACKGROUND

- a. FNS Headquarters and FNS Regional Offices received numerous inquiries and complaints regarding schools in different states that separate students in school facilities based on gender in the school facilities during the breakfast and/or lunch meal service periods.
- b. The school food authorities involved in separation by gender during the service of program meals have taken the position that this practice does not violate Title IX of the Education Amendment Act of 1972, the National School Lunch Act, and other relevant USDA regulations and guidance.

## FNS GUIDANCE

- a. Upon consultation with the USDA Office of the General Counsel (OGC), FNS has determined that school authorities may not separate any students based on gender during the service of program meals.
- b. There are other methods to ensure safety and discipline without or separating students based on impermissible factors such as gender.
- c. Under the governing statute for the CNPs (CNA and NSLA), FNS does not have the authority to grant States and/or program providers a waiver to the requirements mandated under these acts in the enforcement of constitutional or statutory rights of individuals under Title IX ((42 U.S.C. 1760 (l) (4) (M) (iii))).
- d. An exemption by an educational institution controlled by a religious organization may be filed with the USDA pursuant to 15 C.F.R. 15a.12 (b). The exemption must be in writing and by the most senior official of the requesting institution. The request must also identify which part of this policy violates a specific tenet of the religious organization.

If you have additional questions regarding this guidance, please contact Anita Cunningham, Acting Director, FNS Office of Civil Rights, at 703-305-0986.