

# Civil Rights in Child Nutrition Programs

Vermont Agency of Education  
Child Nutrition Programs

# Topics Covered

- Legislation
- Assurances
- Public Notification
- Data Collection
- Language Assistance
- Modifications to Accommodate Disabilities
- Complaint Procedure
- Civil Rights Reviews and Resolution
- Training
- Customer Service
- Conflict Resolution

# Objectives

- By the end of this presentation you will be able to:
  - Implement correct Civil Rights procedures.
  - Provide reasonable modifications to accommodate disabilities.
  - Establish a Civil Rights Complaint Procedure.
  - Have completed annual Civil Rights training.

# Definition of Discrimination

- Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by action or lack of actions.
- For the Food and Nutrition Service (FNS) programs administered by Vermont Agency of Education (AOE) there are 6 federally-protected bases and;
- 4 Vermont AOE-specific protected bases.

# Federally-Protected Bases

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

# Vermont Agency of Education Protected Bases

- Includes all federal bases and:
  1. Religion
  2. Sexual Orientation
  3. Gender Identity
  4. Marital/Civil Union Status

# Eligibility Requirements vs. Discrimination

- These programs have been established to serve a certain group of people.
- It is not considered discrimination to exclude those who do not meet the eligibility requirements for these programs.
- For example, there are various age limits in the programs, and it is not age discrimination to exclude or not serve those that do not meet the age requirements.

# Legislation



# Civil Rights Legislation <sup>1</sup>

- Title VI of the Civil Rights Act of 1964
  - Race, color, and national origin
- Civil Rights Restoration Act of 1987
  - Clarifies the scope of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973 & Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008
  - Disability
- Title IX of the Education Amendments of 1972
  - Sex
- Age Discrimination Act of 1975
  - Age

# Civil Rights Legislation <sup>2</sup>

- Executive Order 13166
  - Addresses/improves access requirements for persons with Limited English Proficiency (LEP)
- USDA LEP Policy Guidance (79 Fed. Reg. No. 229. Friday, November 28, 2014)
- USDA Departmental Regulation 4330-002
  - Prohibits discrimination in programs and activities receiving federal funds from the USDA
- FNS Instruction 113-1 & FNS Instruction 113-1 Appendix B (School Meals, SFSP, & CACFP)
- 7 CFR Part 16 “Equal Opportunity for Religious Organizations”
  - Allows religiously affiliated organizations to compete equally for USDA funds

# Equal Opportunity for Religious Organizations

- 7 CFR Part 16:
  - Ensures a level playing field for the participation of faith-based organizations and other community organizations in USDA programs.

# Implementing Equal Opportunity for Religious Organizations

- This can be accomplished by:
  - Prohibiting discrimination for or against an organization on the basis of religion, religious belief, or religious character in the administration and distribution of federal funds.
  - Allowing a religious organization that participates in USDA programs to retain its independence and continue to carryout its mission, provided that direct USDA funds do not support any “explicitly religious activities such as worship, religious instruction, or proselytization.
  - Clarifying that faith-based organizations can use space in their facilities to provide USDA-funded service without removing religious art, icons, scriptures, or other religious symbols.
  - Ensuring that no organization that receives direct federal funds can discriminate against a program beneficiary, or prospective beneficiary, on the basis of religion or religious belief.

# Civil Rights Legislation <sup>3</sup>

- 28 CFR Part 42 (Nondiscrimination in Federally Assisted Programs)
- 7 CFR Parts 15, 15a & 15b
  - Nondiscrimination, Education, Disability
- 7 CFR Parts 210, 215, & 220 (NSLP, SMP, SBP)
- 7 CFR Part 225 (SFSP)
- 7 CFR Part 226 (CACFP)
- 7 CFR Part 245 (NSLP, SMP, SBP) [Eligibility]

# Assurances

# Civil Rights Assurances

- To qualify to receive federal funds, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with civil rights laws and implement nondiscrimination regulations.
  - The Program Agreement contain the assurance language.
- A civil rights assurance must be incorporated into all agreements between state and local agencies and between local agencies and their sub-recipients.
- FNS Instruction 113-1 Appendix B contains required assurances language.

# Assurances When Contracting With Vendors

- Retailer and vendor agreements must include an assurance of nondiscrimination.
  - For example, many School Food Authorities (SFAs) contract with Food Service Management Companies (FSMC). The SFA is responsible for ensuring the FSMC is in compliance with civil rights requirements.



# Purpose of Assurances

- Assurances help to
  - Clarify expectations
  - Eliminate discrimination against applicants, participants, and beneficiaries
  - Prevent future discrimination
  - Address effects of past discrimination

# Public Notification

# Public Notification System

- All FNS programs must have a public notification system.
- The purpose of this system is to inform persons of:
  - Program availability
  - Program rights and responsibilities
  - The nondiscrimination policy
  - The procedure for filing a complaint
- Make program information available to the public upon request.
- Inform eligible persons, applicants, participants, and grassroots organizations, such as the PTO, of programs and program changes, such as change in meal prices.

# Elements of Public Notification

- Prominently display the “And Justice For All” non-discrimination poster in all required areas.
- Convey the message of equal opportunity in all photos and graphics used to provide program information.
- Provide information in alternative formats for persons with disabilities.
- Provide information in the appropriate language(s) for Limited English Proficiency (LEP) persons.
- Include the required nondiscrimination statement on all appropriate materials, publications, websites, posters, and informational materials.

# “And Justice For All” Non-Discrimination Poster

- It must be the official poster. Local reproduction is not authorized.
- Display the poster prominently in all required locations.
  - Cafeteria
  - If students do not visit the cafeteria at some point in their day, it must be displayed where they eat.
  - Central office and Food Service office
  - Field trips where meals served
- The poster is not required in day care homes.
- This poster is a trademark of a federal program and the most highly recognizable form of public notification of the non-discrimination requirements and procedure for filing a complaint of discrimination.

# Ordering “And Justice For All” Non-Discrimination Posters

- This is a picture of the required poster.
- To get posters, please contact Ailynne Adams at
  - (802)-828-1626
  - [ailynne.adams@vermont.gov](mailto:ailynne.adams@vermont.gov)



# Nondiscrimination Statement

- At a minimum, the complete nondiscrimination statement must be on vital materials related to benefit level, necessary for participation, including:
  - Free and Reduced-Price Meal Application Materials
    - Free and Reduced-Price Meal Application
    - Meal Application Cover Letter
    - Notification of Direct Certification Pre-Approval
    - Notification of Approval or Denial of Meal Benefits
    - Reminder Regarding Expiration of Previous Year Eligibility Benefits

# Nondiscrimination Statement Continued

- The complete nondiscrimination statement must be on:
  - Verification Materials
    - Verification Notice
    - Verification Results Letter
  - \*The Free and Reduced-Price Meal Application Materials and the Verification Materials with the correct nondiscrimination statement are provided annually on the [Vermont Agency of Education Child Nutrition Programs Free and Reduced Meals webpage](#).
  - Program Webpage



# Program Webpage

- Web pages must contain the non-discrimination statement or the direct hyperlink.
  - Include statement on school and SU-level pages
- The one exception would be if the meals program is not referenced in absolutely any way, but that is unlikely and not recommended, as websites are a great way to promote the program and increase participation.

# Complete Nondiscrimination Statement

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](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](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

# Complete Nondiscrimination Statement 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.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) 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](mailto:program.intake@usda.gov).

Esta institución es un proveedor que ofrece igualdad de oportunidades.

# Short Version of Nondiscrimination Statement

- English:
  - This institution is an equal opportunity provider.
- Spanish:
  - Esta institución es un proveedor que ofrece igualdad de oportunidades.

# Using the Short Nondiscrimination Statement

- Can be used on documents for public distribution, such as brochures or flyers.
- If short statement is used, it must be the current version.
- It must be no smaller than the smallest font used elsewhere in the document.
- It is not required on calendar menus, unless they contain “program information”. Vermont is requiring it be included on the calendar menu because “program information” is a broad term.

# Data Collection

# Racial and Ethnic Data Collection

- The purpose is to determine how effectively FNS programs are reaching potentially eligible persons and to determine if additional outreach is necessary.
- Applicants shall be assured that the information is only for statistical purposes and has no effect on eligibility.

# Racial and Ethnic Data Collection Process

- For schools, data is collected by the registrar at the time of student enrollment. Households also have the opportunity to report this information on the back of the Free and Reduced-Price Meal Application.
- In the Summer Food Service Program (SFSP), sponsors complete the Racial and Ethnic Data Form for each site once every summer and once every session for each camp. This is based on visual identification. SFAs may also use Racial and Ethnic data obtained during the school year.
- In the Child and Care Food Program (CACFP) this information is collected on the enrollment form that child care centers have households fill out each year. If households do not fill out this section, it is the center's responsibility to make a visual observation.
- In all programs, children must not be asked to identify their race and ethnicity.



# Racial and Ethnic Data in the Organization Application

- Racial and Ethnic Data is reported by organizations in the Organization Application section of the program Application Packet.
- Actual data provided by the SFAs/sponsors is compared to county-wide data to assess efficacy of outreach.

# Race and Ethnicity Categories

- Ethnicity
  - Hispanic or Latino
  - Not Hispanic or Latino
- Race (one or more of the following)
  - American Indian or Alaskan Native
  - Asian
  - Black or African American
  - Native Hawaiian or Other Pacific Islander
  - White

# Population Data Sources

- U.S. Census Data
  - <http://www.census.gov/2010census/data/>
  - Conducted once every 10 years
- American Community Survey
  - <http://www.census.gov/acs/>
  - Conducted annually

# Language Assistance

# Bilingual Requirements and Program Access

- Limited English Proficiency (LEP)
  - Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- Recipients of federal funds have a responsibility to take reasonable steps to ensure meaningful access to programs for LEP individuals.
- Each SFA has an English Learner (EL) contact.

# What is Meaningful Access?

- Meaningful access is accomplished by providing reasonable, timely, appropriate, competent, qualified, accurate, and effective language services to individuals with LEP when accessing programs and services.

# Factors to Consider in Addressing LEP

- The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient
- Frequency with which LEP individuals come in contact with the program
- Nature and importance of the program, activity, or service provided by the program
- Resources available to the recipient and costs

# Translation Resources

- Free and Reduced-Price Meal Applications are available in a number of foreign languages at:
  - <https://www.fns.usda.gov/school-meals/translated-applications>
- Non-Discrimination Statement is available in a number of foreign languages at:
  - <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>
- Other program materials may need translation.
- Foreign language teachers, community organizations, and volunteers may be used.
- Make sure they understand the confidentiality requirements.
- Interpreter hotlines are another option.
- Children should not be used to translate program requirements.



# Language Assistance Resources

- Telelanguage Inc. provides on the phone services
- Migration Policy Institute's National Center on Immigrant Integration Policy
  - <http://www.migrationpolicy.org/>
- Department of Justice: LEP.gov
  - <http://www.lep.gov/maps/>

# Vermont-Specific Resources

- Vermont Refugee Resettlement Program (USCRI)
  - <http://refugees.org/field-office/vermont/>
- Vermont 2-1-1, United Way run service database
  - <http://www.vermont211.org/>

# Modifications to Accommodate Disabilities

# Disability Discrimination Legislation

- The following Civil Rights laws protect persons with disabilities who are potential applicants or participants in FNS programs:
  - Section 504 of the Rehabilitation Act of 1973 and USDA implementing regulation, 7 CFR Part 15b
  - Americans with Disabilities Act (ADA), 28 CFR Part 35, Title II, Subtitle A
    - Prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by state and local governments.
    - ADA Amendments Act of 2008

# ADA Amendments Act of 2008

- This act expanded and clarified the definition of a disability.
- It did not change the expectation to provide a Reasonable Modification.
- The disabled person does not have the burden of “proving” the disability exists.
- It made very clear that the emphasis must be on providing the reasonable modification.

# Definition of Disability

A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

# Expanded Definition of Disability

- Revises “Substantially Limits”
  - Need not prevent, or severely/significantly restrict a major life activity.
  - Based on an individualized assessment.
  - Determination is regardless of the effects of any mitigating measures. Mitigating measures include medications or assistive devices that an individual uses to reduce the effects of an impairment.
  - May include an impairment that is episodic or in remission if it would substantially limit a major life activity when active.

# Major Life Activity

- Major life activity includes functions such as:
  - Caring for one's self
  - Performing manual tasks
  - Walking
  - Seeing
  - Hearing
  - Speaking
  - Breathing
  - Learning
  - Working
  - Reading
  - Eating



# Major Life Activity Continued

- As result of the ADA Amendments Act of 2008 also includes functions of:
  - The immune system
  - Normal cell growth
  - Digestive
  - Bowel
  - Bladder
  - Reproductive functions
  - Neurological
  - Brain
  - Respiratory
  - Circulatory
  - Cardiovascular
  - Endocrine

# Coverage of All Operations

Even one dollar of federal money brings the entire scope of the operations within the jurisdiction of Section 504, even when the requested modification is not related to the part of the operations that receives federal money.

# Types of Disability Discrimination

- Discrimination because of the disability
  - Denying benefits or opportunities to participate
  - Segregating individuals with disabilities
  - Aiding, perpetuating or contracting with others that discriminate
- Failure to provide a reasonable modification
- Ineffective communication
- Inaccessible facilities

# Ensuring Accessibility

- There is an obligation to ensure members of the public are provided accommodations in order to access program information, Free and Reduced-Price Meal Applications, and assistance (i.e. Braille, large print, and audio tape).
- Providing qualified sign language interpreters for persons with hearing disabilities may be necessary to effectively communicate with these applicants and participants.

# Ensuring Accessibility <sup>2</sup>

- It is important that websites and online application systems are accessible and usable by persons with visual impairments and other disabilities.
- Programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
- At times, different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services.

# Guidance on Meal Accommodations

- [Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs](#)
- [Accommodating Children with Disabilities in the School Meal Programs Manual](#)
- [Policy Memorandum on Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program](#)

# Reasonable Modifications

- A change or alteration in policies, practices, and procedures to accommodate a disability.
- Modifications are provided on a case-by-case basis.
- SFAs/sponsors have a duty to work with the requested modification. This means simply saying “no” is never appropriate.
- It is not about determining whether or not the child or program recipient has a disability or whether or not the process is being abused.

# Reasonable Modifications <sup>2</sup>

- The modification requested should be related to the disability or limitations caused by the disability.
- The modification requested does not have to be the modification provided, however some kind of accommodation must be provided.
- Exception: Modifications that would fundamentally alter the nature of the program are not required.
- Providing appropriate modifications is the primary objective.



# Reasonable Modifications: Key Considerations

- Consider costs/resources and age of the child.
- Stereotypes regarding certain conditions or individuals can never determine decisions. Decisions must be based on facts.
- Meal accommodations do not need to mirror the meal or meal item substituted.
- “Lifestyle” choices (e.g. vegetarianism) are not considered disabilities and do not need to be accommodated, unless related to an underlying disability.

# Food Allergies

- Many food allergies fall under the definition of disability under the expanded definition in the ADA Amendments Act of 2008 (ADAAA).
- Applies to much more than just “life threatening” allergic reactions
- “Digestive” and “Respiratory” functions are specifically listed in the ADAAA
- According to the CDC: In the United States, the following eight food groups account for 90% of serious allergic reactions:
  - Milk
  - Eggs
  - Fish
  - Crustacean shellfish
  - Wheat
  - Soy
  - Peanuts
  - Tree Nuts

# Food Allergies: Key Considerations

- Universal exclusions of specific foods or food groups is not an FNS policy, but could be appropriate depending on the circumstances, and within the discretion of the recipients.
- Meal substitutions, which had previously been allowable may now be *required* if needed by a qualified person with a disability.

# Access to the Program

- Ensure food service areas are accessible.
- Provide auxiliary aids and services, if needed.
  - Examples include:
    - Food service aides
    - Adaptive feeding equipment
    - Meal tracking assistance
    - Other effective methods

# Integrated Environment

- Integration clause in Section 504 means that disabled individuals should be accommodated in the least restrictive and most integrated setting possible.
- In the food allergy context, this most often comes into play where children with food allergies are ostracized in some way during meal time.
  - Allergy-free tables, such as peanut-free tables, are acceptable, as long as they are not also “punishment” tables.
- Providers must always balance safety vs. stigma. The severity of the allergy and age of the child are the primary considerations.

# Reimbursement while waiting for a Medical Statement

- Medical statement may be requested, but is not required for substitutions within the meal pattern requirements.
- SFA/sponsor should begin providing a reasonable modification and request the family provide the medical statement to support it.
- Document the initial interaction with the household and continue to follow up with the household until they submit documentation.
- SFAs/sponsors may receive reimbursement for meals served during this time.

# Medical Statement Requirements

- The medical statement must come from a professional licensed by the State to write prescriptions.
- If a statement is unclear, seek clarification, but this should not unnecessarily delay the modification; that could be characterized as harassment/denial.
- Statement must provide sufficient information about the impairment (diagnosis not required and should not be requested), how it restricts diet, and how to accommodate the condition.
- Cannot request medical records or charts.

# Licensed Medical Professionals

Licensed by Office of Professional Regulation:

- Dental
- Naturopathy
- Nursing under Advance Practice Nursing so includes Nurse Practitioners
- Optometrists
- Osteopaths
- Veterinarians
- Pharmacy

Medical Physicians under Vermont Department of Health Board of Medical Practice:

- Physicians
- Podiatrists
- Physicians Assistants



# Assessing the Medical Statement

- Medical Statement must have 3 parts:
  - Food to be avoided
  - Brief explanation of how exposure to the food affects the child
  - Recommended substitute(s) (does not have to be that particular brand)
- \*It is not about whether or not they have a disability, but what can be done to modify the program.

# IEP or 504 Plan

- If the child's Individualized Education Program (IEP) or 504 Plan contain the information required in the medical statement, an additional medical statement is not required.

# Duration of the Medical Statement

- SFAs do not have to obtain updated medical statements on a regular basis.
- SFAs will continue to receive reimbursement as long as the medical statement is on file.
- SFAs are responsible for ensuring medical statements reflect the current needs of children.

# Process for Implementation and Compliance

- Develop procedures for households to request reasonable modifications.
- Train school and food service staff on the procedures and legal requirements.
- The 504 Coordinator is responsible for ensuring compliance. Contact them for assistance.
- The coordinator is often part of a team that is assembled to implement modification guidelines and decisions.

# Procedural Safeguards

- Must have a procedure in place to ensure households know how to request a modification and understand their right to file a grievance should a requested modification not be granted.

# Procedural Safeguards Process

- The notice provided to the household must include their rights to:
  - File a grievance
  - Receive prompt and equitable resolution of said grievance
  - Request and participate in an impartial hearing to resolve their grievances
  - Be represented by counsel at the hearing
  - Examine the record; and
  - Receive notice of the final decision and a procedure for review, i.e., right to appeal the hearing's decision.

## For CACFP and SFSP

- Program operators that employ 15 or more individuals must designate at least one person to coordinate compliance with disability requirements, often referred to as a 504 Coordinator.
- Program operators that employ 15 or more individuals must establish grievance procedures.

# Complaint Procedure



# Complaints of Discrimination

- Never discourage individuals or groups from filing complaints or voicing allegations of discrimination.
- Complaints regarding civil rights must be submitted to the USDA (not to the local level or state agency, although they must track complaints).
  - The nondiscrimination statement provides instructions.
- Complaints may be written or verbal.
- Complaints may be anonymous.


# Reporting Complaints of Discrimination

- All civil rights complaints shall be accepted and forwarded to the USDA Office of the Assistant Secretary for Civil Rights (OASCR).
- The complainant must file within 180 days of the alleged act of discrimination.
- USDA will investigate Civil Rights complaints.

# USDA Discrimination Complaint Form

- English version:
  - [http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain\\_combined\\_6\\_8\\_12.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf)
- Spanish Version:
  - [http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish\\_Form\\_508\\_Compliant\\_6\\_8\\_12\\_0.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Spanish_Form_508_Compliant_6_8_12_0.pdf)

# Complaint Form Snapshot

 OMB Control Number 0508-0002

**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**  
**Office of the Assistant Secretary for Civil Rights**  
**Program Discrimination Complaint Form**

First Name: \_\_\_\_\_ Middle Initial: \_\_\_\_\_ Last Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip code: \_\_\_\_\_

E-mail address (if you have one): \_\_\_\_\_

Telephone Number starting with area code: \_\_\_\_\_

Alternate Telephone Number starting with area code: \_\_\_\_\_

Best Time of the Day to Reach You \_\_\_\_\_

Best Way to Reach You, (check one): Mail  Phone  E-mail  Other:

Do you have a representative (lawyer or other advocate) for this complaint? Yes  No

If yes, please provide the following information about your representative:

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

1. Who do you believe discriminated against you? Use additional pages, if necessary.

Name(s) of person(s) involved in the alleged discrimination (if known):

\_\_\_\_\_

Please name the program you applied for (if known/if applicable): \_\_\_\_\_

# Reporting Complaints Related to the Vermont Agency of Education Protected Bases

- Please contact:

Clare O'Shaughnessy, Staff Attorney  
clare.oshaughnessy@Vermont.gov  
(802)-828-0105

\*The phone number listed here is for nondiscrimination policy questions only.

# Vermont Agency of Education Nondiscrimination Policy

The Agency of Education does not discriminate on the basis of race, color, national origin, creed, marital status, sex, disability, age, gender identity, or sexual orientation in its programs and activities.

The following person has been designated to handle requires regarding the nondiscrimination policies:

Clare O'Shaughnessy, Staff Attorney

(802)-828-0105

[clare.oshaughnessy@vermont.gov](mailto:clare.oshaughnessy@vermont.gov)

For further information on notice of nondiscrimination, visit US Department Education, Office of Civil Rights for the address and phone number of the office that serves your area, or call (800)-421-3481.

# SFA/Sponsor Complaint Procedure

- SFAs/Sponsors must have a written procedure for receiving and processing complaints alleging discrimination in the federal meal programs.
- Use [SFA or Sponsor Civil Rights Complaint Procedure Template](#)
- The SFA/sponsor must keep a Civil Rights Complaint Log.
- Maintaining confidentiality is crucial.
- Notify Child Nutrition Programs at VT AOE CNP.

# Documenting Complaints

Obtain as much information from complainant as possible:

- Name and contact information of complainant
- Description of incident including date, time, location, and persons present
- Relevant Protected Base(s)

Additional information to include in log:

- Name of organization and individuals alleged to have engaged in discrimination
- Date of referral to USDA OASCR
- The findings of any investigation conducted
- Description of the final disposition of the complaint including any corrective action planned or taken



# Reprisal and the Complaint Procedure

- There is language about reprisal in the nondiscrimination statement.
- This is why it is required to keep a separate complaint log and not put the information into case files/IT systems for which all employees have access.
- Restricted access may limit the potential for real/perceived retaliation or reprisal issues.
- While all employees should be confident in the complaint process and how to advise individuals of the policy and procedure, they should not all have access to complaint information.

# Reprisal in Department of Justice Regulation

- “[n]o recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by [Title VI], or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing ...” 28 C.F.R. § 42.108(e)

# Reprisal in USDA Departmental Regulation 4330-002

- **“No person shall be subjected to reprisal or harassment because he or she filed a discrimination complaint; participated in or contributed to the identification, investigation, prosecution, or resolution of civil rights violations in or by a recipient of Federal financial assistance from USDA; or otherwise aided or supported the enforcement of Federal or USDA civil rights laws, rules, regulations, or policies.”**

# Reviews and Resolution

# Reviews

- Examine the activities of state agencies, sub-recipients, and local sites to determine Civil Rights compliance.
  - FNS Civil Rights and program staff review state agencies.
  - FNS staff and state agencies review local agencies.
  - Local agencies review their sub-recipients, such as FSMCs.
- State agencies must report significant findings in writing to the reviewed entity and FNS.

# Types of Reviews

- Pre-Award Civil Rights Review
- Routine (Post-Award) Civil Rights Reviews/Administrative Reviews
- Special Civil Rights Reviews

# Pre-Award Civil Rights Reviews

- State agencies, sub-recipient agencies, and local sites must be in compliance with Civil Rights requirements prior to approval for receiving federal funds.
  - Pre-Award Civil Rights Questionnaire
- No federal funds shall be made available to an institution until the Pre-Award Civil Rights Questionnaire Review has been completed and the applicant has been determined to be in compliance with Title VI.

# Routine (Post-Award) Civil Rights Reviews/Administrative Reviews

- State agency or FNS reviews of local agencies include the following areas:
  - Eligible persons and households have an equal opportunity to participate
  - Availability of program information
  - “And Justice for All” non-discrimination poster is prominently displayed in the required locations
  - Nondiscrimination statement included on program materials
  - Racial and ethnic data collection
  - Written Complaint Procedure and materials, e.g. complaint log
  - Civil Rights training and documentation
  - Reasonable Modifications to Accommodate Disabilities
  - Confidentiality and anonymity of eligibility categories
  - Maintenance of documents for 3 years, plus the current. Local rules may require records be maintained longer.



# Special Civil Rights Reviews

- Special Civil Rights Reviews may be conducted by USDA OASCR staff and/or FNS when:
  - Significant Civil Rights concerns which have a direct impact on the delivery of the FNS program and/or benefits.
  - Statistical data indicates that a particular minority group is not participating in or benefitting from the program to the extent indicated by the population potentially eligible to participate in or benefit from the program.
  - Reports of noncompliance made by other agencies need to be substantiated.
  - Patterns of complaints of discrimination have developed that require follow-up.

# Resolution of Noncompliance

- Noncompliance: a factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other sub-recipient.
- Immediate steps must be taken to obtain voluntary compliance.
- A finding's effective date is the date of notice to the reviewed entity.

# Common Civil Rights Findings during Administrative Reviews

- Not all staff involved in CNP operation have received training
- Missing procedure for handling complaints of discrimination
- Current and correct “And Justice for All” non-discrimination poster not publicly posted
- Missing non-discrimination statement from website
- Calendar menu missing the short non-discrimination statement

# Training

# Civil Rights Training

- SFAs/sponsors are responsible for annually, based on a calendar year, training all staff involved in any and all aspects of the Child Nutrition programs including:
  - All food service professionals
  - Free and reduced-price meal application approval and verification process personnel
  - teachers responsible for meals in the classroom, such as Breakfast in the Classroom and the Fresh Fruit and Vegetable Program (FFVP)
  - any program volunteers
- New employees must be trained before involvement in Child Nutrition duties.

# Civil Rights Training for Teachers

- Due to COVID-19, the structure of meal service in School Year 2020-2021 means most teachers will be involved in meal service in some capacity.
- Could do a light touch of all required topics and then a deeper dive of relevant topics. They do not need training on Legislation and Assurances. Topics like Data Collection and Civil Rights Reviews could be briefly covered, with more time spent on topics such as Public

# Civil Rights Training Documentation

- Training must be documented with dates, names, signatures, and topics covered.
- [Child Nutrition Programs Civil Rights Training Documentation](#) sign-in sheet is available on the VTAOE CNP homepage.

# Purpose of Civil Rights Training

- Training helps ensure that individuals involved in all levels of administration of programs that receive Federal financial assistance understand Federal laws, regulations, instructions, policies, and other guidance.



# Training Topics to Cover

- Specific subject matter required, but not limited to:
  - Public notification systems
  - Collection and use of data
  - Requirements for language assistance
  - Requirements for reasonable modifications to accommodate disabilities
  - Complaint procedures
  - Civil Rights reviews
  - Resolution of noncompliance
  - Customer service
  - Conflict resolution

# Training on Complaint Procedure

- Staff should be able to identify a civil rights complaint if received.
- They should know what to do if they receive a complaint.
- Staff must understand that it is the basic right of persons to file a complaint of discrimination.

# Professional Standards Coding for School Meals

- Civil Rights counts towards the annual training standards.
  - 2200- Serving Food: 2210- Identify/serve portions of food items according to USDA school meal pattern requirements and diet restrictions.
  - 3400- Human Resources and Staff Training: 3410- Understand and apply human resource management practices.  
3420- Implement current personnel policies and procedures.

# Ways to Receive Training

- Watch this webinar live
- Watch the recording of this webinar
- Read through the Child Nutrition Programs Civil Rights Training PowerPoint
- Incorporate the PowerPoint into your organizations online training modules
- Receive approval from VTAOECNP to use an alternative Civil Rights Training

# Customer Service

# Customer Service <sup>1</sup>

- Good customer service reduces chances of discrimination.
  - Be courteous and thoughtful.
  - Be patient and listen carefully.
  - Treat all students equally.
    - No separation by protected bases in seating arrangements, serving lines, services and facilities, or eating periods.
      - As noted in the Accommodation section, allergy-free tables, such as peanut-free tables, are acceptable, as long as they are not also “punishment” tables.
  - Know and be able to explain any requirements that must be followed.

# Describe what customer service means to you!

- Take a few minutes to think about what good customer service means to you and how you plan to implement it this school year.

# Conflict Resolution



# Conflict Resolution <sup>1</sup>

- It is possible to avoid a potential civil rights complaint with conflict resolution techniques.
  - Remain calm; ask about the situation.
  - Listen and repeat back to be sure you understand.
  - Be empathetic.
  - Ask questions to gather information.
  - Get help from authority figures if there are threats or if violence is possible.

# Citizenship or Immigration Status

- Verification of immigration status should never give rise to discrimination.
- Information provided on Free and Reduced-price Meal Applications is confidential and will not be shared with Department of Homeland Security (DHS)/Immigration and Customs Enforcement (ICE).
- Applicants without Social Security numbers are still eligible to apply for free and reduced-price meal benefits.

# Record Retention

- All records must be kept confidential and maintained on file for 3 years, plus the current year.
- Local rules may require records be maintained longer.

# COVID-19 Civil Rights Considerations

- Training teachers
- Potential need for additional posters
- Providing meal modifications to accommodate disabilities for non-congregate meals

# Vermont Agency of Education

## Child Nutrition Programs

### Contact Information

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# USDA FNS NERO Contact Information

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U.S. Department of Agriculture

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# Complete Non-Discrimination Statement

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](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](mailto:program.intake@usda.gov).

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