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**DIVISION OF FOOD,
NUTRITION AND WELLNESS**



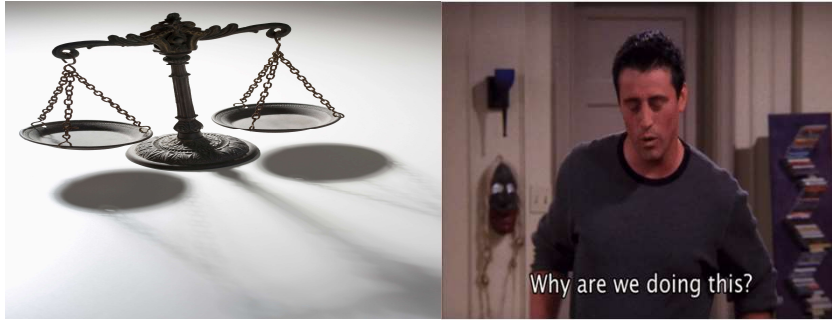
Civil Rights Training

Thank you for joining us for today's webinar on Civil Rights Training.

My name is _____. I am a Training and Technical Assistance Specialist and will be presenting an overview of Civil Rights compliance, how to handle complaints of alleged discrimination, and how to provide quality customer service.

We will have a Question-and-Answer session at the end of the presentation. You may type your questions in the Question box at any time and we will answer them during the Q&A.

Purpose of Civil Rights



The Purpose

The Purpose of this presentation is to convey the importance of the complying with the Federal Regulations on Civil Rights. The content came from the Federal Regulations and Instruction developed by the USDA's Food and Nutrition Service.

What is Discrimination?



The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected bases.

Before we begin, we need to clearly define what we mean by “discrimination.”
Discrimination is defined as:

“The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected bases.”

Protected Bases/Classes

- Race
- Color
- National Origin
- Sex
- Disability
- Age
- Retaliation/Reprisal



The protected classes and all the civil rights and nondiscrimination rules are in the federal regulations 7 CFR 210 and 245 as well as the food and Nutrition Instructions FNS 113-1

In the National school Lunch, Breakfast and Afterschool Snack programs, the identified protected classes or bases are:

Race
Color
National Origin
Sex
Disability
Age
Retaliation/Reprisal for prior Civil Rights activity

Agenda/Areas of Compliance

- Public Notification System
- Meaningful Access for Individuals with LEP
- Equal Opportunity for individuals with Disabilities
- Data Collection
- Training
- Customer Service
- Civil Rights Complaints
- Compliance Reviews/Resolving Noncompliance
- Assurances

TODAY'S AGENDA

Compliance with the rules and regulations are a vital element to ensuring you are an equal opportunity provider.

The areas of compliance in Civil Rights and non-discrimination include: ***(click as you mention each item)***

Your Public notification system which entails

- The ways are you letting people know about your program
- How they can participate
- Notifying participants of their rights and responsibilities in the program
- And how you are assisting participants with limited English proficiency

- Meaningful access for Individuals with LEP
- Equal Opportunity for individuals with Disabilities

Data Collection including:

- Collecting Race and Ethnicity data for students
- Prototype forms

- How the data is collected and stored

Areas of training that must be conducted annually

Customer Service

How to recognize and handle civil rights complaints

Types of compliance reviews that may be expected

Assurances – language in contracts and forms that ensure that you and others will not participate in discrimination and report any complaints.



Public Notification

It is important to make sure that people who are eligible to participate in the program know how they can participate.

To operate the NSLP, a sponsor must have a public notification system.

The purpose of this system is to inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.

Program Availability **Yes!**
WE'RE **OPEN**

¡Ya estamos abiertos!

- **Make information available on benefits and services of the program in a language and format that they can understand**
- **Examples: news releases, radio, television, internet, letters, or bulletins**



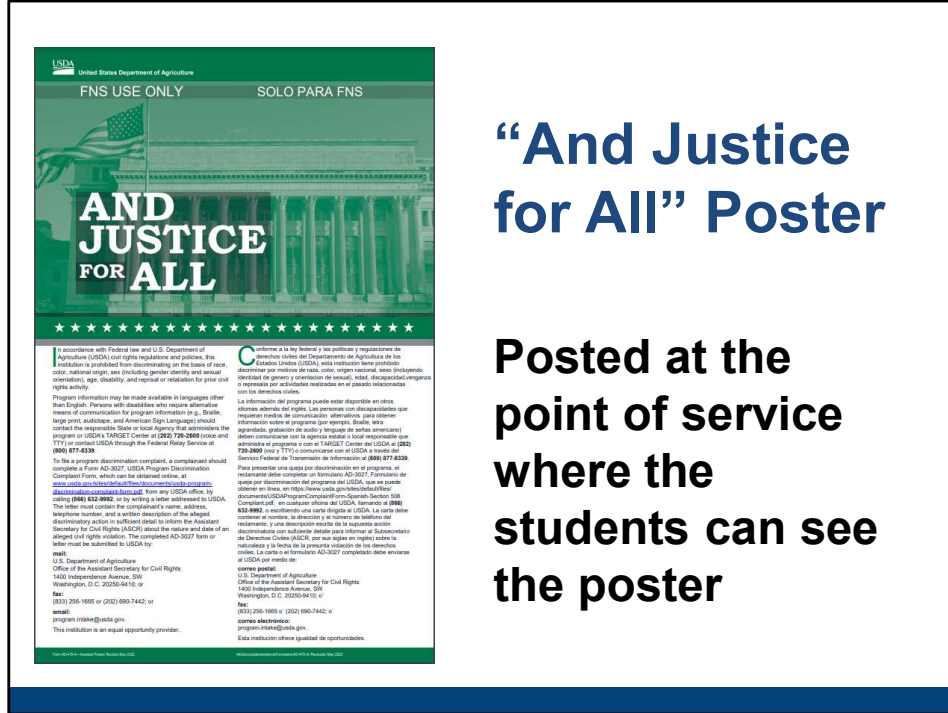
To inform the public of the program availability, you need to make the information available through public communication methods such as news/press releases to multiple outlets – radio, television, social media, and internet.

Notify individuals with LEP about the availability of free language assistance services and how to request them in a language that they can easily understand.

Notify individuals with disabilities about the availability of free reasonable modifications and auxiliary aids and services.

In July, the Division of Food, Nutrition, and Wellness sends out a statewide public media release for the National School Lunch Program.

However, if your sponsorship implements, Universal Free, Community Eligibility Provision and/or Provision 2, our office has a prototype Public Media Release available under Download Forms in FANS for your use.



“And Justice for All” Poster

Posted at the point of service where the students can see the poster

Now, we will discuss the non-discrimination poster known as the And Justice for all Poster. The And Justice for All poster must be posted in a prominent location at the point of service.

The poster is a part of the public notification process as it gives both the rights and responsibilities, as well as instructions for filing a discrimination complaint to the students.

All “And Justice for All” posters must be displayed in a specific size: 11” width x 17” height.

Non-Discrimination Statement

In accordance with federal civil rights 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, disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, 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.

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: <https://www.usda.gov/sites/default/files>, 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;

or email: program.intake@usda.gov

This institution is an equal opportunity provider.

The non-discrimination statement must be on all public, printed program material, including, at a minimum, the front-page of a district/school's website In English , Spanish and Haitian Creole . The protected classes and all the civil rights and non-discrimination rules are in federal regulations 7 CFR 210 and 245, as well as the Food and Nutrition Services Instructions FNS 113-1.

The complete USDA non-discrimination statement is presented on this slide

The statement reads:

In accordance with federal civil rights 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 (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

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Collection and Use of Data

- **Data collection requirement**
 - Race & ethnicity
 - Identification methods
- **Privacy**
- **Retention**



Sponsor/school officials must collect racial and ethnic data on children applying and participating in the meal programs on an annual basis.

The preferred method of collecting racial and ethnic data is self-identification and self-reporting. Sponsors should explain the importance of this data to participants as they encourage them to self-identify and self-report. However, in instances where individuals fail to self-identify the Sponsor will still be responsible for attempting to collect this data. Examples of alternative means by which sponsors can obtain race or ethnicity data include utilizing data from other sources in which the participant has self-identified race or ethnicity, such as school databases.

Keep in mind, that in accordance with USDA Policy Memo CACFP 11-2021, visual observation and identification of program participants is not an approved or allowed method of racial and ethnic data collection. Again, visual observation is no longer an acceptable method of collecting this data.

This information is reported to our State Agency by every Sponsor in FANS via the Civil Rights Module. This information is required as part of the annual renewal process.

Ethnicity is collected first, and everyone is reported as being either:
Hispanic or Latino
Not Hispanic or Latino

Race is collected next, and everyone is reported as being:
American Indian or Alaska Native
Asian
Black or African American
Native Hawaiian or Other Pacific Islander
White

The students previously counted as Hispanic or not Hispanic, are also counted in the Race section. For students who are biracial and have self-identified as such, you can count them twice in the two separate race categories. Consequentially, the race totals could be higher than your ethnicity totals. But your ethnicity totals cannot be higher than your race totals.

Information can only be viewed, provided, and used in the aggregate by the Sponsor, and its affiliated administrative components for specific purposes, and can only be viewed individually by authorized State or federal personnel during reviews or as a part of surveys.

For school districts and charter schools, the record retention requirement for the state level are 5 years plus the current year. For RCCI's, Private Schools and Special Milk Program, the federal record retention requirements are 3 years plus the current year.

Annual Training

- Annual Civil rights training is required for all staff
- Training must be documented and kept on file
- Topics to be covered in the sponsor's training for staff should include:
 - Collection and use of data
 - Effective public notification systems
 - Compliant procedures
 - Compliance review techniques
 - Requirements for reasonable modifications and equally effective communication for individuals with disabilities
 - Requirements for language assistance for persons with limited English proficiency
 - Resolutions of noncompliance
 - Conflict Resolution
 - Customer Service

Annual Training

- ***Click*** Civil rights training is required for all staff on an annual basis.
- ***Click*** Training must be documented and kept on file by the sponsor.
- ***Click*** Topics to be covered in the sponsor's staff training should include: ***Click***
 - Collection and use of data
 - Effective public notification systems
 - Compliant procedures
 - Compliance review techniques
 - Requirements for reasonable modifications and equally effective communication for individuals with disabilities
 - Requirements for language assistance for persons with limited English proficiency
 - Resolutions of noncompliance
 - Conflict Resolution
 - Customer Service

Recognizing a Civil Rights Discrimination Complaint

- **Can be verbal or written**
- **Must be discrimination based on one or more of the protected classes or retaliation/reprisal**
- **Can be made to any staff member or volunteer at the Sponsor, Site, the Florida Department of Agriculture, or USDA**
- **Follow specific complaint process and procedure**

When recognizing a Civil Right discrimination complaint, a few things must be kept in mind:

The complaint can be received in both verbal or written form

The complaint must be discrimination based on one or more of the protected classes/bases or retaliation/reprisal mentioned in the non-discrimination statement

The complaint can be made to any staff or volunteer at the Sponsor or site, the Florida Department of Agriculture, or USDA

Once a complaint is received, there is a specific process and procedure that must be followed

What Information to Collect

- **Use a prototype form for consistency**
- **Collect the following information:**
 - **The complainant's contact information**
 - **The nature of the alleged incident**
 - **Any additional information that the complainant would like to include**

When there is a complaint, it is important that the person taking the complaint does so consistently. The best way to be consistent is to use the prototype form provided by the division. When collecting the information, be sure to practice good customer service techniques. Most importantly, be sure to write down the following information from the complainant:

The complainant's contact information

The nature of the alleged incident

Any additional information that the complainant would like to include

Handling the Complaint

- **Person has 180 days to file a complaint from alleged incident.**
- **Contact the Division of Food, Nutrition and Wellness immediately**
- **FNW division must notify USDA of complaint within 3 days**
- **Complaint investigation and resolution will be determined by the USDA**

The prototype Complaint of Discrimination form is available in FANS under Download Forms. Again, we highly recommend you use this form to ensure a consistent process.

An individual has 180 days to file a complaint from the date of the alleged discriminatory incident or action.

The sponsor must notify our office immediately upon receiving the complaint.

From there, our office is required to notify USDA within three days.

Compliance Reviews

Annually verify civil rights compliance during site visits

- **Pre-award Compliance Reviews**
- **Routine Compliance Reviews:**
Conducted during Administrative Review
- **Special Compliance Reviews**

Three compliance reviews are conducted.

The Preapproval/Pre-award Compliance Review: This review is conducted by the state agency. We will review the Civil Rights Compliance Questionnaire completed and submitted by the sponsor. Also, during an on-site review (discussed later) we will check for Civil Rights compliance.

The Post-Award/Routine Compliance Review: This review is also conducted by the state agency. During the Administrative Review (conducted every three years), the state will review the sponsor's Civil Rights documentation and observe the meal service to ensure Civil Rights Compliance.

The Special Compliance Review: This review is conducted by the USDA. These reviews are conducted when a significant Civil Rights concern has been identified in relation to the NSLP.

Civil right compliance is also verified annually during site visits.

Special Compliance Review

- A particular group in a specific area is not benefiting from the program
- Reports of alleged noncompliance are made by the media, grassroots organizations or advocacy groups
- Reports of alleged noncompliance are made by other agencies, such as Department of Education and Department of Health
- Patterns of complaints of discrimination have been documented

Here are some examples of what could cause a special compliance review:

A particular group in a specific area is not benefiting from the program

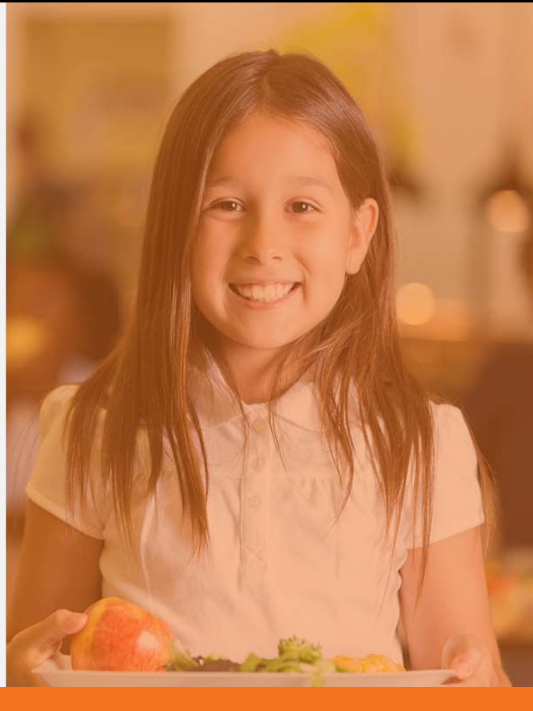
Reports of alleged noncompliance are made by the media, grassroots organizations or advocacy groups

Reports of alleged noncompliance are made by other agencies, such as Department of Education and Department of Health

Patterns of complaints of discrimination have been documented

Assurances

A Civil Rights Assurance is incorporated in all agreements between the state agency and the sponsor in order to ensure all children have access to the programs and benefits.



Remember, Civil Rights assurance is incorporated in all agreements between the State Agency and sponsor. This is to ensure all children have access to the programs and benefits.

Civil Rights, Customer Service, and Conflict Resolution




“Your most unhappy customers
are your greatest source of
knowledge.”
- Bill Gates


Read quote



Customer service is often key to both limiting and effectively handling the complaints you receive.

As the quote by Bill Gates shows, we can learn a great deal from customers who are unhappy and can help us improve our process, both at providing customer service and improving program performance.




Keys to Good Customer Service



em·pa·thy

"in" "feeling"



- Recognize customers have varied needs and few resources
- Recognize when the customer feels they have been treated in a rude or discourteous manner
- Learn to practice empathy when necessary
- Develop good listening skills


Good customer service is important, as it has often been identified that many of the civil rights complaints received are customer service complaints. If we treat the customers as we would want to be treated, then complaints could be potentially avoided.

Some of the steps to good customer service in processing civil rights complaints are to:


Acknowledge the complainant as a unique customer and recognize that they have a need to express the complaint to you as the program operator. Often, complainants and customers feel that they have been treated inappropriately, rudely, or in a discourteous manner. Recognize and acknowledge their feelings. It will validate what the customer is feeling and help you resolve issues more quickly.






If you can empathize with the way the customer or client feels, do so and acknowledge how they are feeling. Use phrases such as, "I can see how frustrating that is for you" or "I can see how this makes you feel...." Using this kind of language can help increase the empathy between you and the client.

No matter how hard it is, hold your tongue and open your ears. Often, the customer feels that they are not being heard, even though what they are saying is important. It's important that you take their complaint seriously or assist them in obtaining additional resources, to ensure that they are given equal access to the program. In any case, if you practice good listening skills, the customer may feel that they are heard, and sometimes that may be all they are looking for.



Good Listening Techniques



- Concentrate on what the person is saying by blocking out distractions
- Maintain eye contact
- Use occasional nodding
- Use phrases such as “I understand,” or “I see that you are frustrated” when appropriate.
- Let the person talk as long as necessary.

Practices for good listening techniques include:

Concentrating on the person and what they are saying. Eliminating any distractions for you and for them, so that you can focus on what they are saying.

Maintaining eye contact with the individual.

Nodding occasionally.

Using affirming language and validate that you are listening and are recognizing their feelings and/or situation.

Finally, do not limit what the individual would like to tell you, or guide what they are saying to fish for information. Try your best to gather the information from what they are saying.

Behaviors to Avoid

- Apathy
- “Brush-off” behavior
- Coldness
- Robotism
- Rule book
- Runaround




When taking complaints, there are some behaviors we want program sponsors as well as FNW staff to keep in mind.

Remember, complaints can be given to the FNW staff, so if you're visiting a site and a child approaches you with a complaint of discrimination, or if a parent calls you with a complaint, you must be prepared to take that complaint, and there are certain behaviors we would like you to avoid.

Those behaviors include, apathy, brush-off behavior, coldness, robotism, referring to the rule book, and the runaround.

Let's look at each more closely.



Apathy

“Apathy is the acceptance of the unacceptable.” – John Stott

“Apathy is the acceptance of the unacceptable” – John Stott. Imagine for a moment that you are someone who has a complaint of discrimination, and you bring it to the attention to your supervisor. Would you appreciate it if he or she took your complaint in a manner which indicates a lack of care or concern? Of course not. This is why we train our sponsor officials and staff to show concern, empathy, and care for the individuals who are bringing the complaint to our attention.

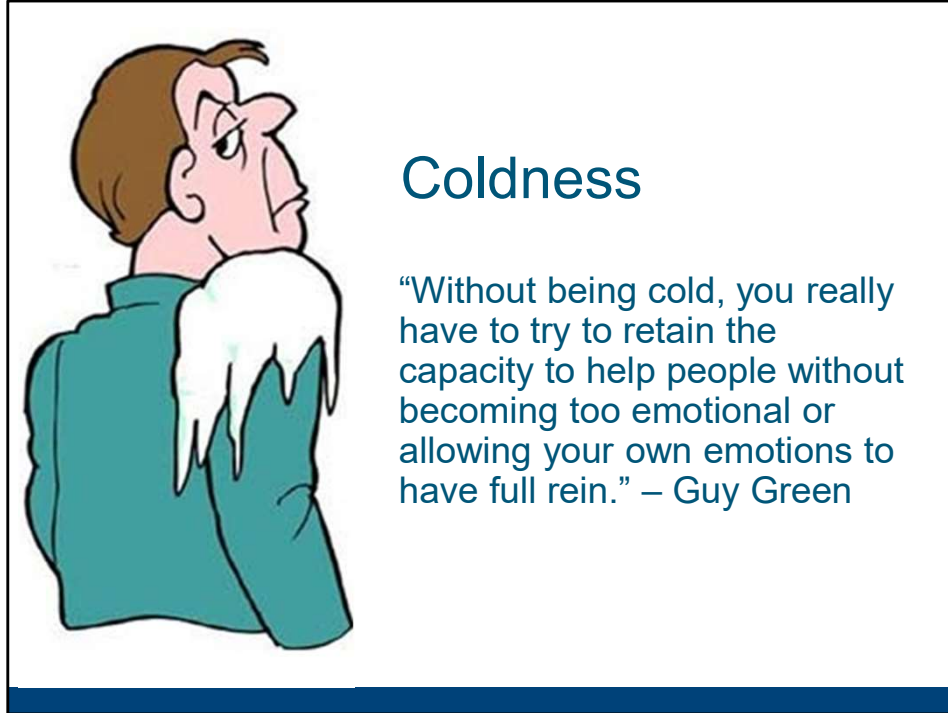
Brush-Off Behavior



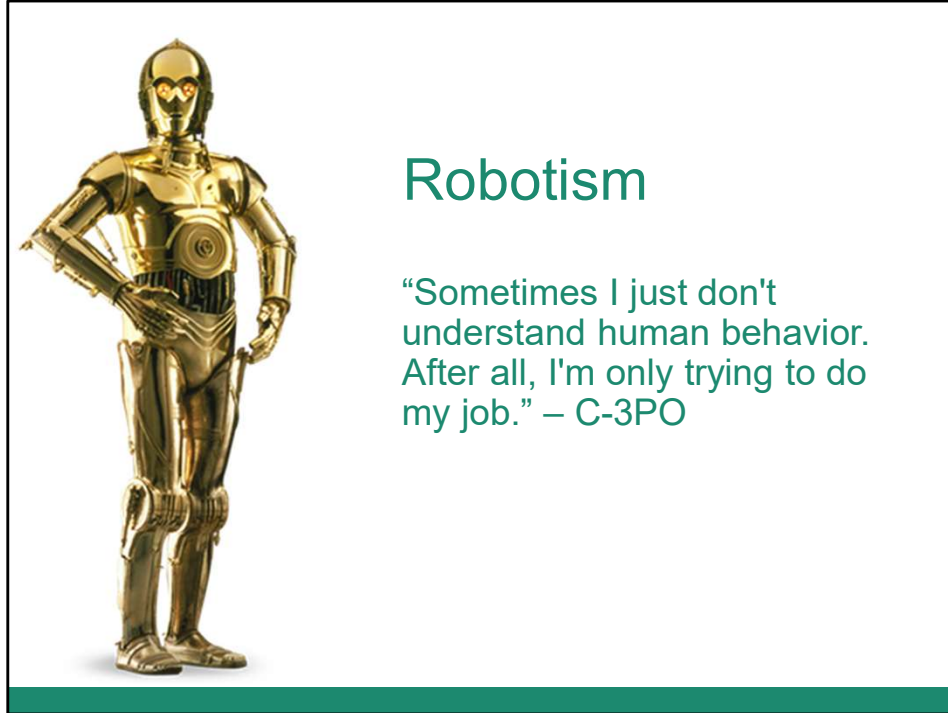
“When someone tells you they are too ‘busy’ ... It’s not a reflection of their schedule; it’s a reflection of your spot on their schedule.” – Dr. Steve Maraboli

“When someone tells you they are too ‘busy’...it’s not a reflection of their schedule; it’s a reflection of your spot on their schedule.” – Dr. Steve Maraboli.

It’s important that we make sure the person making the complaint is our priority. Brushing off behavior can include avoidance or deflection of the person or of their concerns. As for rushing, that could include something like glancing at your phone or watch, which may cause the person making the complaint feel like you’re in a rush and that you don’t have time to hear their concerns.. Again, make sure they know they are your priority.



“Without being cold, you really have to try to retain the capacity to help people without becoming too emotional or allowing your own emotions to have full rein.” – Guy Green. One thing that we’ll discuss later in this presentation is the importance of having a control of your emotions when taking the complaint, as well as showing empathy and engagement with the complainant. If you show empathy and engagement, you’ll have no trouble avoiding coldness toward them.



“Sometimes I just don’t understand human behavior. After all, I’m only trying to do my job.” In our past iterations of this training, we’ve described robotism as answering questions plainly without care, as if in a robotic state. This of course remains true. However, another aspect of robotism that we want to avoid is this C-3PO mentality. We want to avoid the mindset that we are just robots, or droids, if you Star Wars fans must insist, who are only trying to do our day-to-day job and that this Civil Rights matter doesn’t concern us. Again, any FNW employee can receive a Civil Rights complaint and its important that we show compassion and understanding toward the student or household member making the complaint.

Referencing the Rules



“Principles and rules are intended to provide a thinking man with a frame of reference.” – Carl von Clausewitz

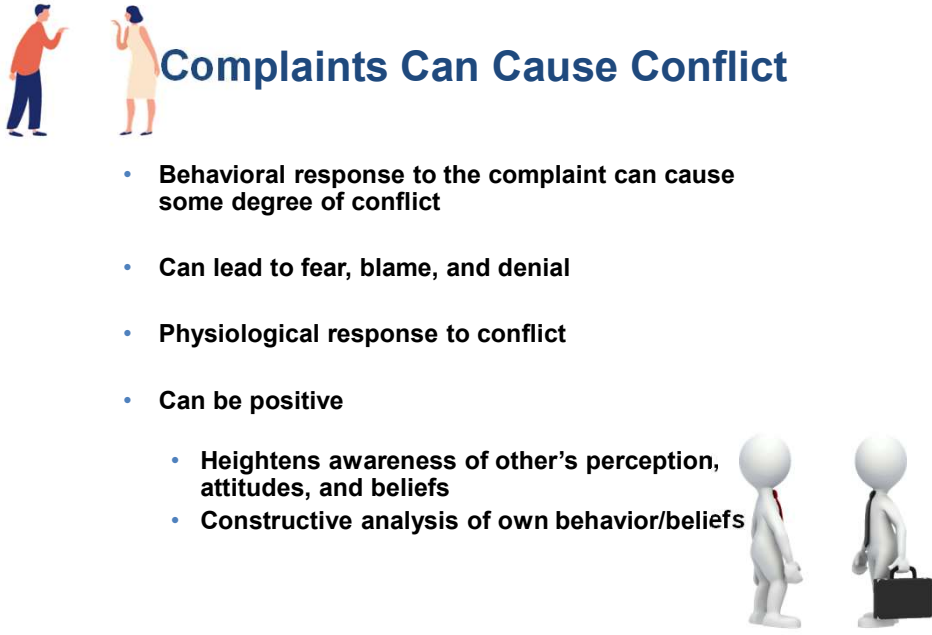
“Principles and rules are intended to provide a thinking man with a frame of reference.” – Carl von Clausewitz (Claus-eh-vitz). What this quote means, is that the rules and principles we are to follow, should help give us direction to our actions. You should be aware of the rules so that you don’t make any promises you can’t keep. However, in the moment that you are taking the complaint, it is not the time to use the rules to limit the substance of the complaint being made. Avoid making statements such as – “I can’t help you because the rules state.....” or “They won’t let me because...” Instead, take the complaint, report it to your supervisor, and then let the rules and regulations sort out what can be done about it from there.

The Runaround



“There are no traffic jams along the extra mile.” – Roger Staubach

“There are no traffic jams along the extra mile” – Roger Staubach. Have you ever had a time when you were left on hold for long periods or time, or transferred from person to person, each claiming that someone else would be the one to help you? Did you enjoy that experience? I doubt it, unless you love listening to elevator music. Although it can be tempting to try and pass the buck to someone else, remember, all FNW staff are responsible and capable of taking a complaint. So do not refer out to others, or delay addressing their concerns. Be willing to go that extra mile with those you’re working with.



Complaints Can Cause Conflict

- Behavioral response to the complaint can cause some degree of conflict
- Can lead to fear, blame, and denial
- Physiological response to conflict
- Can be positive
 - Heightens awareness of other's perception, attitudes, and beliefs
 - Constructive analysis of own behavior/beliefs

Often the complaints can lead to conflict, and it will be important to know and practice conflict resolution prior to recording and forwarding the complaint. Resolutions to the complaint often can not occur at the time the complaint is made. Therefore, management of additional interactions with or services for the customer is important to minimize the harmful impacts of conflict.

The complainant's behavioral response to the complaint may need to be managed.

Conflict can lead to fear, blame, and denial in both the complainant and the sponsor's program staff

Additionally, there could be a physiological response to conflict, such as a change in blood pressure, body language, etc.

Conflict, however, can have positive effects if properly managed:

It can heighten awareness of other people's perception, attitudes, and beliefs

It can lead to a constructive analysis of your own behavior/beliefs

Conflict Resolution Components



- Control emotional responses
- Seek understanding
- Identify need and common interests
- Seek mutual benefits or purpose

Some other tips we can help the sponsor staff with is to remind them of the 4 key components that must be addressed in conflict resolution.

First, as the staff involved in the conflict resolution, must manage and control their emotional responses. For example, the complainant or parties involved in the conflict may have emotional responses that provokes an emotional response in the sponsor staff. Although they may have strong feelings regarding the conflict, in order to lead to resolution, they must manage their emotional responses.

Secondly, you must find a way to seek an understanding between themselves and the other parties in the conflict. The gulf may be wide, but they must be able to hear and understand what the conflict is, and how the gaps can be narrowed.

Next, they need to identify what each party in the conflict needs, including their own needs, and find common interest and points of agreement between all parties. It can be particularly challenging in bring people to common needs and interest, but this is one of the goals of the discussion in the conflict resolution.

The fourth component is to search for items in the conflict that both sides may

benefit, or for a mutual purpose between the sides.

Keep these tips in mind as well if you ever find yourself taking a complaint. It's important to keep your emotions in check as well, and remember these conflict resolution components.

Constructive Conflict Resolution

- Define the problem/issue/complaint
- Identify the activity causing conflict and assess the details of the information provided
- Recognize, respect, and respond to the feelings of those involved in the conflict
- Identify points of similarity and differences that are in the conflict

Here are some additional tips on resolving conflict in a constructive manner:

Define the problem/issue/complaint. If problem X is given, and you or the sponsor provide a solution for problem Y, then the issue wasn't properly identified and remains unsolved!

Identify the activity causing conflict and assess the details of the information provided. Not knowing the root cause of the problem is like treating symptoms to the problem rather than the problem itself.

Recognize, respect, and respond to the feelings of those involved in the conflict. Again, remember all the customer service tips we've talked about.

Identify points of similarity and differences that are in the conflict. FNW, the sponsors, and the sponsor's patrons all want the same thing, a beneficial food service program. If we remember that we all want the same thing, we will be better able to resolve conflicts in an effective manner.

Civil Rights Plan

- LEP – Limited English Proficiency
- Meal Modifications for Children with Disabilities

As part of your Civil right training, you are required to developed a civil right plan for your sponsorship. As part of that plan, you will need to take the following trainings:

LEP – Limited English Proficiency

Meal Modifications for Children with Disabilities

After completing these training, you will be able to build your civil right plan for your sponsorship to help address any civil rights issues or questions that you may come across . You can contact your Training and Technical Assistance Specialist with any questions in building your plans.



Limited English Proficiency (LEP)



Purpose


- To convey policy and provide guidance to ensure compliance with prohibition against discrimination in the National School Lunch Program (NSLP) with Limited English Proficiency (LEP)

The following training material is derived from:

- Code of Federal Regulations Parts 210 and 245
- USDA's Food and Nutrition Service Instruction 113-1
- SP 37-2016 -Meaningful Access for Persons with Limited English Proficiency (LEP) in the School Meal Programs: Guidance and Q&As

The purpose of this section is to remind local educational agencies (LEAs) and schools that they are required to take reasonable steps to ensure meaningful access to school meals for eligible students from households comprised of Limited English Proficient or LEP individuals.

This section of the webinar summarizes existing U.S. Department of Agriculture (USDA) and Food and Nutrition Service (FNS) guidance intended to assist Program participants in providing meaningful access for LEP persons.



What is Limited English Proficiency (LEP)?

“A person with Limited English Proficiency (LEP) is someone who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English”

What is “Limited English Proficiency” or LEP?

A person with Limited English Proficiency (LEP) is someone who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.

Public Notification for LEP Individuals

- Must provide materials for speakers with limited English proficiency as failure to do so could be considered discrimination based upon national origin
- Must take reasonable steps to ensure meaningful access to the program information and services provided to all LEP persons



Limited English Proficiency (LEP) persons must be a part of the Public Notification strategy. It is important to take reasonable steps to provide meaningful access announcements and materials to those possible program participants who are LEP. Failing to provide services to LEP potentially eligible persons, applicants, and participants, or denying them meaningful access to the NSLP, may be discriminating on the basis of national origin.

The USDA has a broad range of resources to assist with notifying LEP individuals as to the program availability, rights and responsibilities. The USDA has applications translated into multiple languages, as well as the “And Justice For All Poster”, and translated nondiscrimination statements on the Food and Nutrition Service website. Please check USDA’s FNS website for additional resources.

Sometimes, however, Sponsors may identify a particular set of LEP individuals who are not being met with current resources. When developing new LEP material, sponsors should take to steps to ensure meaningful access to the School Meal Programs following guidance and factors in determining the reasonable steps to address the community:

1. Number of LEP persons within the school's attendance area
2. Frequency with which LEP persons come in contact with the school
3. The Nature and importance of the program and service provided to people's lives
4. And Resources available to the NSLP sponsor and costs

Responsibilities for Schools Communicating with LEP Individuals

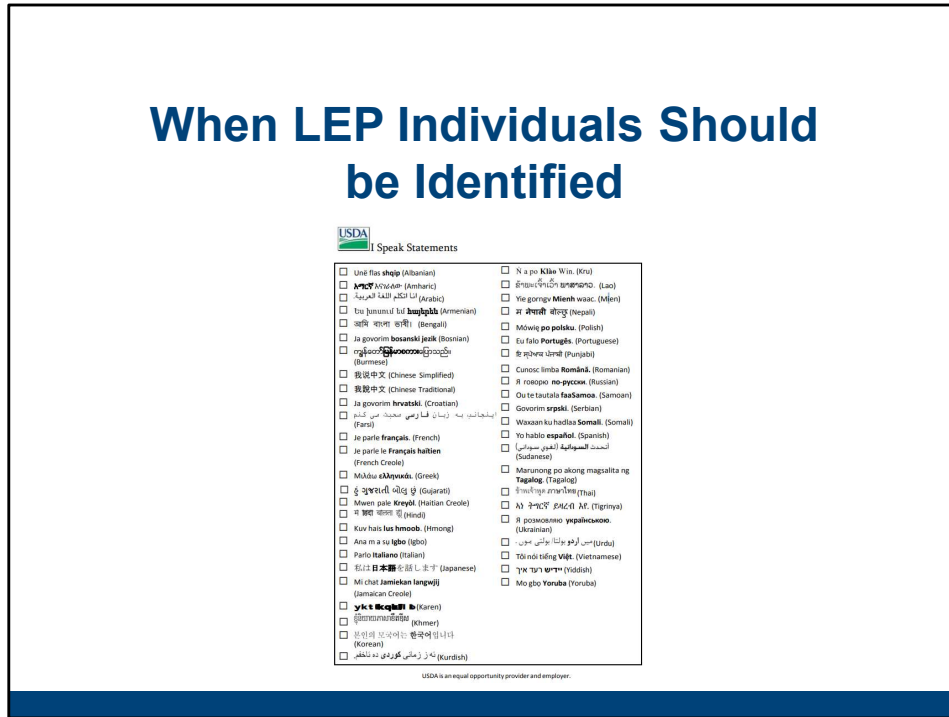


- Be presented in an understandable and uniform format
- To the maximum extent feasible, in a language that parents and guardians can understand

Consistent with Section 9(b) of the Richard B. Russell National School Lunch Act, 42 USC 1758(b), and according to 7 CFR 245.6 (a)(2), schools are required to communicate school meals eligibility information “in an understandable and uniform format and to the maximum extent feasible, in a language that parents and guardians can understand.”

Once a school becomes aware of an LEP individual’s needs, the school is responsible for ensuring that their application and other household materials such as letter, instructions, notices, and verification materials are available in a language the LEP individual can understand.

When LEP Individuals Should be Identified



FNS recommends identifying LEP individuals prior to the distribution of school meal applications and when additional eligibility information, such as approval or denial, is sent.

Many schools identify a LEP individual’s primary language during the school enrollment process and store this information in an online database to ensure that communications sent to families throughout the school year are sent in the appropriate language. Using a central database also reduces duplication of efforts, and may reduce paperwork and administrative costs for the school food service staff

Most schools have a system in place to identify a parent or guardian’s primary language. Here are some suggested Options:

- Conducting a Home Language Survey during student enrollment.
- Sharing USDA’s “I Speak” document with parents and guardians to determine which language they are most comfortable speaking. The “I Speak” document, as seen on the slide, can be downloaded from the USDA Translated Applications Web page.

- and Checking with organizations that work with local families, such as migrant or refugee assistance agencies, to determine which translations are needed.

Planning LEP Communications

The overall number of students from households comprised of LEP individuals

The proportion of students from households comprised of LEP individuals as compared with the overall student population

The frequency of communications with LEP individuals

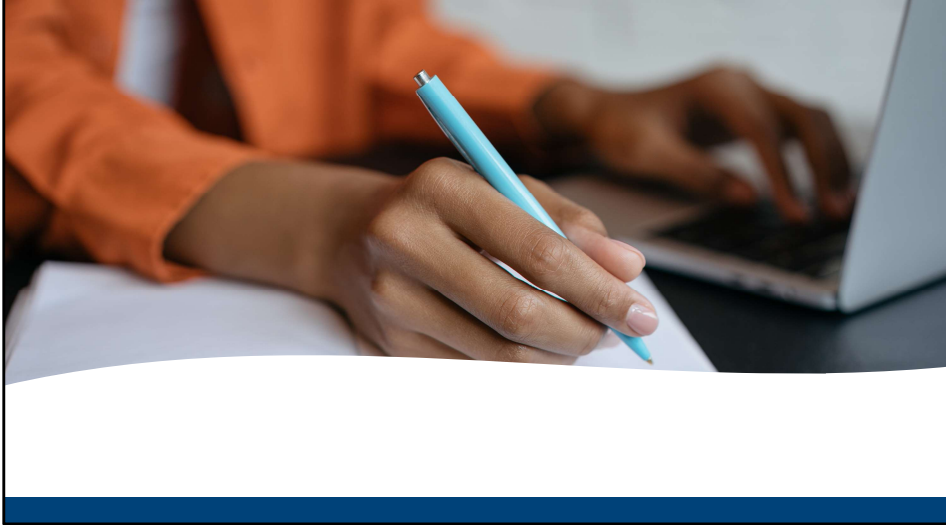
The means through which communications are sent e.g., mail, telephone, websites, etc.

The resources already available i.e., USDA translation materials and the resources that will need to be supplied i.e., oral interpreter

According to FNS Instruction 113-1, when determining the need for and extent of LEP communications, State agencies, LEAs, and schools should consider:

- The overall number of students from households comprised of LEP individuals,
- The proportion of students from households comprised of LEP individuals as compared with the overall student population,
- The frequency of communications with LEP individuals,
- The means through which communications are sent (e.g., mail, telephone, websites, etc.), and
- The resources already available (i.e., USDA translation materials) and the resources that will need to be supplied (i.e., oral interpreters)

Written Translations



Information about school meals is often communicated in writing, so it is important that LEP individuals have access to accurate translations. As described in the Eligibility Manual for School Meals, applications and other related written materials must provide LEP individuals access to the same information that is provided to non-LEP persons.

According to the USDA LEP Guidance, when determining which materials should be translated, LEAs and schools should consider which materials are “vital” to an individual’s participation.

This may include, “applications to participate in a recipient’s program or activity or to receive recipient benefits or services,” such as school meal applications.

Consistent with previously issued LEP guidance, at a minimum, State agencies must make USDA’s translations of prototype materials available to LEAs through a link on their website and provide printed copies of application materials as needed.

Alternatively, State agencies and LEAs may choose to develop written translations of their own application materials. FNS also expects LEAs to take appropriate measures to ensure that language and communication are not barriers to program participation

Written Translations

The USDA Translated Applications website includes two written translation resources available for use by State agencies, LEAs, and schools:

- Translations for applications intended to be used directly by families: <https://www.fns.usda.gov/cn/applying-free-and-reduced-price-school-meals>
- Translations for applications and verification form prototypes for State agency consideration: <https://www.fns.usda.gov/cn/translated-applications>
- Arabic, Armenian, Cambodian Chinese (Traditional), Chinese (Simplified), Croatian, English, Farsi, French, Greek, Gujarathi, Haitian-Creole, Hindi, Hmong, Japanese, Korean, Kurdish, Laotian, Mien, Polish, Portuguese, Punjabi, Russian, Samoan, Serbian, Somali, Spanish, Sudanese, Tagalog, Thai, Tigrinya, Ukrainian, Urdu, and Vietnamese, Albanian, Amharic, Bengali, Burmese, Creole (French), Karen, Kru, Ibo, Ilokano, Italian, Jamaican Creole, Nepali, Romanian, Serbo-Croatian, Yiddish, and Yoruba

The translated Free and Reduced-Price School Meals Application package includes the letter to households, the application, the notification of selection for verification of eligibility, and the letter of verification results.

The translated application package also includes optional materials that may be provided to households, such as the form to share information with Medicaid/SCHIP and other programs.

LEAs may accept the USDA prototype of the translation, reach out to State or local organizations to inquire about the availability of translations in languages common in their community, or choose to develop translations of their own written materials.

If a State or LEA makes changes to the USDA prototype application, the State or LEA is responsible for ensuring the translations are also changed accordingly.

To assist LEAs and schools in their effort to ensure meaningful access for individuals with LEP, USDA periodically updates the translations available on the Child Nutrition Programs website

The last bullet on the slide shows the many languages currently available through

USDA.

Written Translations

- “Vital” to an individual’s participation
- Any documents that require a response from applicants, beneficiaries, and other participants
- Applications
- Other household materials (letter, instructions, notices, and verification materials)

When determining which materials should be translated, LEAs and schools should consider which materials are “vital” to an individual’s participation. According to the regulations, this may include, “any documents that require a response from applicants, beneficiaries, and other participants,” such as verification letters

Schools are responsible for ensuring that their application and other household materials such as letter, instructions, notices, and verification materials are available in a language LEP individuals can understand.

However, schools are not required to make online application tools available in all languages.

Schools are encouraged to ensure language barriers do not prevent LEP individuals from navigating the website to find information about the school meal application process.

Oral Interpretation and Language Assistance



In the Eligibility Manual for School Meals, USDA has said that State agencies and LEAs must, “provide the necessary services so that parents or guardians, who are unable to read or have limited literacy, are assisted with completing the application process. This may entail providing oral interpretation services.” For example, if no written translation is available in a parent or guardian’s primary language, or if a parent or guardian has limited literacy or otherwise requires assistance for completing the school meal application, schools must provide an oral interpretation to ensure the LEP individual has a “meaningful opportunity” to benefit from the school meal programs

Oral Interpretation and Language Assistance



State agencies, LEAs, and schools should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

FNS Instruction 113-1 includes several recommendations for Federal recipients

working to provide oral interpretations to LEP individuals, including:

- Sharing language assistance materials and services among and between recipients, advocacy groups, and Federal grant agencies,
- Training bilingual staff to act as interpreters and translators,
- Using telephonic and video conferencing interpretation services,
- Centralizing interpreter and translator services to achieve economies of scale, and
- Formally using qualified community volunteers as interpreters.

Oral Interpretation and Language Assistance

Certified Translator - A certified translation is the one that comes with a signed statement of the linguistic expert to attest to the quality of the work. It is considered the most accurate type of translation. It is the only type of translation that is accepted by the authorities.

Qualified Translator- is defined as a highly trained individual who is able to render text from a source language into a target language while preserving meaning and adhering to generally accepted translator ethics and principles, including confidentiality.

What is a certified translator?

USDA defines a Certified Translator as the one that comes with a signed statement of the linguistic expert to attest to the quality of the work. It is considered the most accurate type of translation. It is the only type of translation that is accepted by the authorities.

What is a qualified translator:

USDA defines a Qualified Translator as a highly trained individual who is able to render text from a source language into a target language while preserving meaning and adhering to generally accepted translator ethics and principles, including confidentiality.



Qualified Translator

State agencies and LEAs are strongly encouraged to identify oral interpretation services available within the school or district that can be used to communicate with LEP individuals about school meal benefits. When possible, State agencies and LEAs are also encouraged to partner with local organizations, such as migrant or refugee assistance agencies, to provide oral interpretations

. Third-party interpreters also may provide oral interpretations. Household members (especially students) are not expected to provide interpretive services. In many circumstances, household members are not competent to provide accurate interpretations and the use of household members to provide interpretations may create a conflict of interest. Oral interpreters should:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting,
- Have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity (i.e. school meals eligibility) and of any particularized vocabulary and phraseology used by the LEP person who is being assisted,

- Understand and follow confidentiality and impartiality rules to the same extent as the recipient (i.e. the school) for whom they are interpreting, and •
Understand and adhere to their role as an interpreter, without deviating into a role as counselor, advisor, or other inappropriate roles.

Where to Find Certified Translators and Interpreters

- Federal Language Assessments Using the ILR Scale
- The American Translation Association (ATA)
- The Federal Court Interpreter Program (FCIP) Certification
- The American Council for the Teaching of Foreign Languages (ACTFL)
- The National Association of Judiciary Interpreters and Translators (NAJIT)
- Select State court programs
- Select university and college program

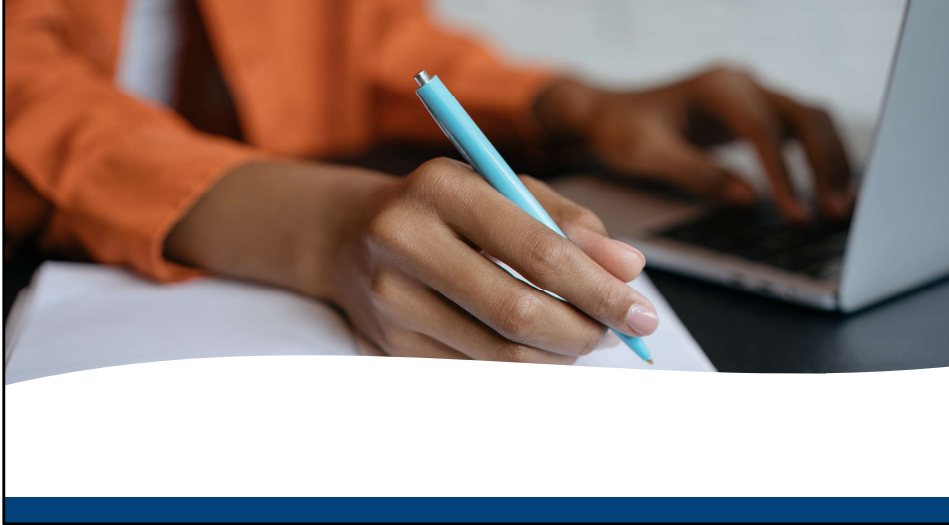
Certified Translator

Where can State agencies, LEAs, and schools find certified translators and interpreters?

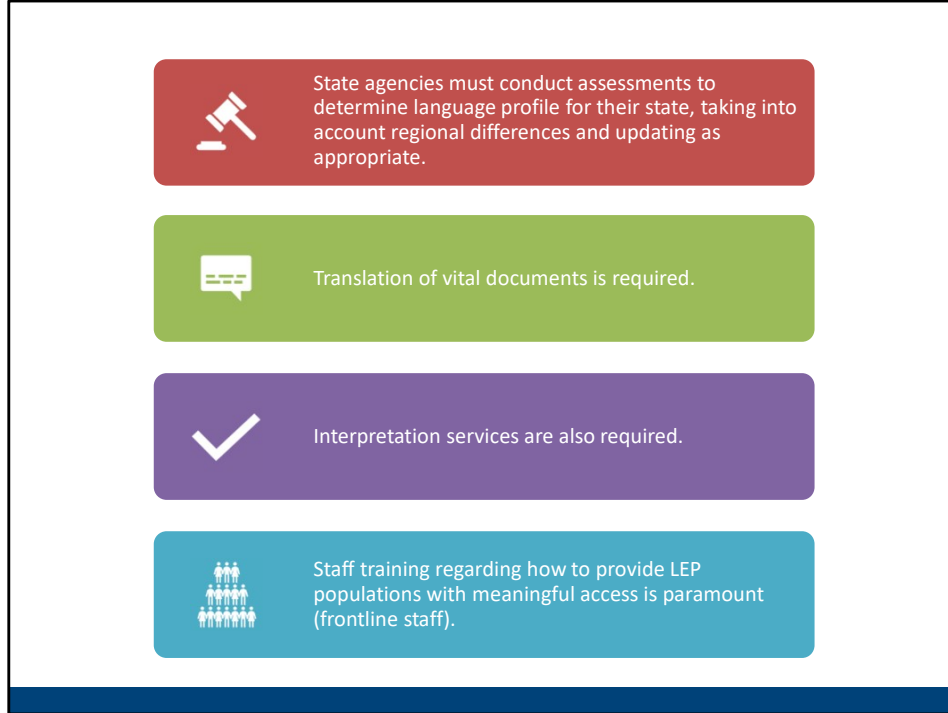
DOJ's Federal Coordination and Compliance Section includes the following key interpretation assessment and certification bodies on their website:

- Federal Language Assessments Using the ILR Scale
- The American Translation Association (ATA)
- The Federal Court Interpreter Program (FCIP) Certification
- The American Council for the Teaching of Foreign Languages (ACTFL)
- The National Association of Judiciary Interpreters and Translators (NAJIT)
- Select State court programs
- Select university and college programs

LEP Guidance

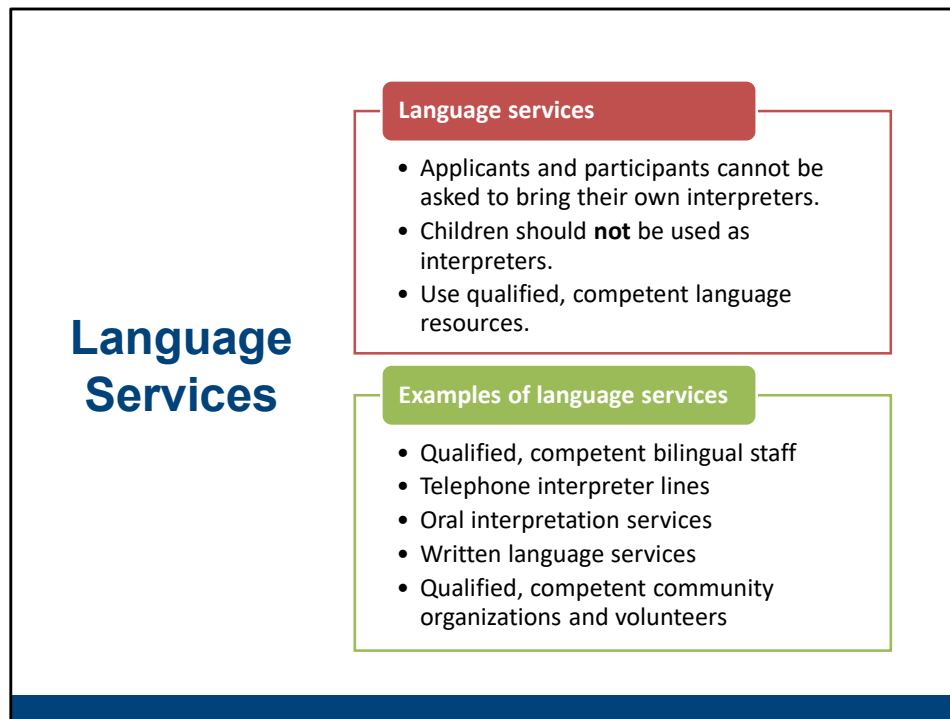


As previously stated, schools are responsible for ensuring that their application and other household materials (letter, instructions, notices, and verification materials) are available in a language LEP individuals can understand. However, schools are not required to make online application tools available in all languages. Schools are encouraged to ensure language barriers do not prevent LEP individuals from navigating the website to find information about the school meal application process. The following slides are will help with some more LEP Guidance



As stated in the Eligibility Manual for School Meals, it is important for State agencies, LEAs, and schools to ensure that LEP individuals with limited literacy can complete the application, certification, and verification process. Schools are encouraged to take the following steps to reduce barriers for LEP individuals with limited literacy:

- Use and accept USDA prototype materials, including translations, which are designed for a 6th grade reading level.
- Develop applications and instructions using plain language.
- Ensure application materials only include information necessary to determine eligibility.
- Make clear that only a single application is needed for all students in the household attending schools in the LEA.
- Designate a school official that can complete an application for an individual student known to be eligible and for whom no application was submitted.



State agencies, LEAs, and schools should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. FNS Instruction 113-1 includes several recommendations for Federal recipients working to provide oral interpretations to LEP individuals, including:

- Sharing language assistance materials and services among and between recipients, advocacy groups, and Federal grant agencies,
- Training bilingual staff to act as interpreters and translators, Children should not be used as interpreters.
- Using telephonic and video conferencing interpretation services,
- Centralizing interpreter and translator services to achieve economies of scale, and
- Formally using qualified community volunteers as interpreters.

Resources

**Federal Limited English
Proficiency site**

<http://www.lep.gov>

**Meaningful Access for Persons
with Limited English Proficiency
(LEP) in the School Meal
Programs: Guidance and Q&As**

<https://www.fns.usda.gov/sites/default/files/cn/SP37-2016os.pdf>

DOJ LEP Mapping Tools

<http://www.lep.gov/maps/>

More information and printable forms may be found at USDA's Civil Rights webpage. The Limited English Proficiency Website is also available with assistance and tools for use



Meal Modifications to Accommodate Children with Disabilities in School Meal Programs

Hello! My name is _____ a Training and Technical Assistance Specialist, and I will be presenting this section on Modification to Accommodate Individuals with Disabilities in School Meal Programs

Agenda

- Legal Framework/Civil Rights Authorities
- Disability definitions
- Reasonable modifications
- Program access and integration
- Meal Modification requests
- Implementation
- Compliance/Admin Reviews for regulations/processes
- Practice Scenarios
- Resources/web links/forms
- Questions



For today's agenda we will be covering: (read slide)

Civil Rights Authorities

- Title VI of the Civil Rights Act of 1964
- **Civil Rights Restoration Act of 1987**
- **Section 504 of the Rehabilitation Act of 1973**
- **Americans with Disabilities Act of 1990**
- **ADA Amendments Act of 2008**
- Title IX of the Education Amendments of 1972
- Age Discrimination Act of 1975

There are several authorities that prohibit discrimination in Food & Nutrition Service (FNS) programs. The focus of today's presentation is on **the four statutes highlighted in bold which prohibit discrimination on the basis of disability**:

1. Civil Rights Restoration Act of 1987 - clarifies the intent of Congress as it relates to the scope of Section 504 of the Rehabilitation Act of 1973 and the other statutes on this slide that hold recipients of Federal financial assistance (FFA) responsible for nondiscrimination requirements.

2. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs or activities receiving FFA.

3. Title II of the Americans with Disabilities Act of 1990: prohibits discrimination on the basis of disability in services, programs and activities provided by state and local governments.

4. Title III of the ADA Amendments Act of 2008: amends the ADA and Section

504 to broaden the potential class of persons with disabilities protected by the statutes. This Act reiterates that Congress intends the ADA Act to be broad and inclusive and prohibits discrimination on the basis of disability by public accommodations .

Civil Rights Authorities cont.

- 7 CFR 15, 15a, 15b & 15c
- 28 CFR 35 Title II of the ADA
- 28 CFR 36 Title III of the ADA
- 28 CFR 41 Implements Executive Order 12250- DOJ Leadership & Coordination of Nondiscrimination Laws
- Executive Order 13166- Improving Access to Services for Persons with Limited English Proficiency (LEP)
- USDA Departmental Regulation 4330-2

Zooming in a little closer, these statutes address nondiscrimination in Federally Assisted Programs on the basis of disability.

Civil Rights Authorities cont.

- FNS 113-1 Civil Rights and Compliance and (Appendix B (NSLP, SMP, SBP))
- SP59-2016 USDA FNS Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs
- SP26-2017 USDA FNS Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers (Q&A)
- SP40-2017 USDA FNS Accommodating Children with Disabilities in the School Meal Programs: Guidance for School Food Service Professionals

Even closer, we find specific guidance for the Child Nutrition Programs and it's recipients.

- SP59-2016 USDA FNS Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs
- SP26-2017 USDA FNS Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers (Q&A)
- SP40-2017 USDA FNS Accommodating Children with Disabilities in the School Meal Programs: Guidance for School Food Service Professionals

ADA Amendments Act of 2008

Disability:

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

The ADA Amendments Act of 2008 clarified the definition of disability.

There are three (3) aspects or prongs to the definition of disability under the ADAAA.

(1) A person is an individual with a disability if they have a physical or mental impairment that substantially limits one or more major life activity.

(2) A person with a disability is an individual with a record of an impairment. An individual who has a record of an impairment is basically an individual who has a history of having a mental or physical impairment that substantially limits one or more major life activity, or an individual who has been misclassified as having such an impairment.

(3) An individual who is regarded as having such an impairment. An example of this could be an individual who had cancer and underwent chemotherapy but is currently in remission.

ADA Amendments Act of 2008

- The term “substantially limits” requires a lower degree of functional limitation than the standard previously applied by the courts.
- The term “substantially limits” is to be construed broadly.
- Determination of impairment requires an individualized assessment
- Determination of impairment is made without regard to the ameliorative effects of mitigating measures
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- The determination of disability should not require extensive analysis.

- The term “substantially limits” requires a lower degree of functional limitation than the standard previously applied by the courts. An impairment does not need to prevent or severely or significantly restrict a major life activity to be considered “substantially limiting”. Nonetheless, not every impairment will constitute a disability.
- The term “substantially limits” is to be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA.
- The determination of whether an impairment substantially limits a major life activity **requires an individualized assessment**, as was true prior to the ADAAA.
- The determination of whether an impairment substantially limits a major life activity shall be made **without regard to the effects of mitigating measures**. For example, a student who has an

allergy and requires allergy shots to manage that condition would be covered under Section 504 and Title II if, without the shots, the allergy would substantially limit a major life activity.

- **An impairment that is episodic or in remission is a disability** if it would substantially limit a major life activity when active. For example, a student with bipolar disorder would be covered if, during manic or depressive episodes, the student is substantially limited in a major life activity (e.g., thinking, concentrating, neurological function, or brain function).
- In keeping with Congresses' direction that the primary focus of the ADA is on whether discrimination occurred, **the determination of disability should not require extensive analysis.**

The Expanded Definition of Disability

- **Major Life Activities:**

Seeing, hearing, walking, speaking, learning, eating, breathing



- **Major Bodily Functions:**


Digestive, immune system, respiratory, circulatory, neurological/brain



Read Slide title and content first

The ADAAA further clarified the definition of a disability by adding a new category of major life activities referred to as "Major Bodily Functions."

For example, If by consuming certain foods an individual's digestive, immune, respiratory, circulatory, and/or neurological system are substantially limited, according to the ADAAA, the person has a disability



**UNDER 7 CFR 15B.3
SCHOOLS MUST MAKE
SUBSTITUTIONS FOR
STUDENTS WHO ARE
CONSIDERED TO HAVE
A DISABILITY AND
WHOSE DISABILITY
RESTRICTS THEIR DIET.**

7 CFR 210.10 (M)

Read Slide: “Under Title 7 of the Code of Federal Regulations 15 b.3 (read slide) “Schools must make...”

210.10 Covers the general Meal requirements for [lunches](#) and requirements for afterschool snacks.

[Schools](#) must offer nutritious, well-balanced, and age-appropriate meals to all the [children](#) they serve to improve their diets and safeguard their health.



Reasonable Modifications



Determined on a case-by-case basis



Providing the modification is your goal, not determining if the individual has a disability



Modifications should be negotiated, the modification requested does not always have to be the modification provided



A change or alteration in policies, practices and procedures to accommodate a disability

A reasonable modification is a change or exception to a policy, practice, or procedure that allows people with disabilities to have equal access to programs, services and activities. A reasonable modification can also be a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.


Reasonable modifications provide persons with disabilities an opportunity to participate in or benefit from the aid, benefit or service that is equal to that afforded others. The modification should be determined on a case-by-case basis.

USDA Disability regulations specifically state that recipients must provide the aid, benefit or service that is as equally effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement in the most integrated setting appropriate, as that provided to others.

There is a duty to negotiate over modifications. This means simply saying “no” is almost never appropriate.

Modifications Provided

- Should be related to the disability or limitations caused by the disability
- Does not have to be the modification requested
- Must (generally) be free of charge
- Should be implemented even when the person requesting the modification believes more should be done



Modification Provided....

1. “Lifestyle” choices (e.g. vegetarian) are not considered disabilities and need not be accommodated unless related to an underlying disability

2. Meal accommodations do not need to mirror the meal or meal item substituted. (Example: pizza is on the menu but for a child with lactose intolerance, pizza with lactose free cheese does not have to be served. Another meal that meets the meal pattern can be served such as a peanut butter and jelly sandwich.)

3. Consider costs/resources and age of the child. “Stereotypes” regarding certain conditions or individuals can never drive decisions. Decisions must be based on facts.

Providers must still accommodate even where the person requesting modification believes more should be done



Read Slide first

A food allergy is an adverse health effect arising from a specific immune response that occurs upon exposure to a given food. The Major Life Activity impacted is usually the digestive function and respiratory function.

A non-life-threatening allergy may be considered a disability and require a meal modification, if it impacts a major bodily function (Immune system) or other major life activity (breathing).

According to the CDC and the FASTER ACT of 2021: “In the United States, the following nine foods or food groups account for 90% of serious allergic reactions: milk, eggs, fish, crustacean shellfish, wheat, soy, peanuts, tree nuts, and recently added, sesame.”

The meals modification guidance recommends developing standard procedures to address and accommodate these common allergens.

Program Accessibility



ENSURE ALL FOOD SERVICE
AREAS ARE ACCESSIBLE



PROVIDE AUXILIARY AIDES
AND SERVICES, SUCH AS:
ADAPTIVE FEEDING
EQUIPMENT OR STAFF TO
ASSIST WITH EATING

Other effective methods” that ensure individuals with disabilities are provided an **equal opportunity to participate in or benefit from the program** include physical accessibility and the provision of other aids and services such as:

- ✓ Food service aides
- ✓ Adaptive feeding equipment
- ✓ Meal tracking assistance

In certain situations, modifications may require additional equipment or specific staff training and/or expertise.

Integrated Environment

- SECTION 504 CONTAINS INTEGRATION CLAUSE

- APPLIES TO FOOD ALLERGIES

- BALANCE SAFETY VERSUS STIGMA



Providing an Integrated Environment

Section 504 and the ADA require school districts to ensure children with disabilities are able to participate along with children without disabilities to the maximum extent appropriate.

Departmental regulations state Program benefits should be provided “in the most integrated setting appropriate to the person’s needs” [7 CFR 15b.4(b)(2)]. School officials must not segregate children with disabilities on the basis of convenience

However, under limited circumstances, it may be appropriate for children to sit at a separate table. For example, if a child requires a large degree of assistance from an aide in order to consume their meals, it may be necessary for the child and the aide to have more space during the meal service.

Additionally, an SFA may determine a more isolated eating area is necessary for children with severe food allergies. The separate eating area may be a designated table in the cafeteria cleaned according to food safety guidelines (to eliminate possible cross contamination of allergens on tables and seating) or an area away from

the cafeteria where children can safely consume their meals.

Prior to developing a special seating arrangement, the school should determine, with input from the child's parent or guardian and if reasonable, the licensed professional who signed the medical statement, if this type of seating arrangement is truly necessary. If the school does develop a special seating arrangement, other children should be permitted to join children with food allergies, provided they do not bring any foods potentially dangerous to those children.

And, the decision whether to separate a student with a food allergy depends on the age of the child – are they mature enough to avoid the food causing the allergic reaction?

Always balance the safety of the child with any stigma that may occur when deciding whether to separate a child. Consider severity of allergy –and how it may outweigh stigma.

Section 504 Coordinator

- REQUIRED WHEN EMPLOYING 15 OR MORE INDIVIDUALS

- RESPONSIBLE FOR ADDRESSING ACCOMMODATION REQUESTS

- RESPONSIBLE FOR ENSURING COMPLIANCE WITH DISABILITY REQUIREMENTS



Section 504/ADA Coordinator and Team LEAs employing 15 or more individuals must ensure their Procedural Safeguards process provides for a prompt and equitable resolution of grievances and must designate at least one person to coordinate compliance with disability requirements [7 CFR 15b.6]. This individual is often referred to as the Section 504/ADA Coordinator.

In many cases, the Section 504/ADA Coordinator is responsible for addressing requests for accommodations in the school in general. As part of their general responsibilities, this individual also may be responsible for ensuring compliance with disability requirements related to meal modifications and the meal service. Regardless of whether the coordinator works in the school food service, the coordinator must ensure school food service professionals understand the procedures for handling meal modification requests.

LEAs are strongly encouraged to develop a Section 504/ADA Team to discuss best practices and develop a holistic plan to create a safe learning environment for children. Using a “team approach” encourages information sharing throughout the school and may help protect children in situations where food is served outside the cafeteria, such as during classroom parties.

MEDICAL STATEMENT FOR MEAL MODIFICATIONS MUST INCLUDE:

- ✓ The child's disability-
DIAGNOSIS NOT REQUIRED
- ✓ The major life activity affected by the disability
- ✓ How the diet is modified
- ✓ Food texture requests and/or food(s) to be omitted/substituted

Medical Statement for Meal Modifications in School Nutrition Programs

This form applies to requests for meal modifications for children participating in the U.S. Department of Agriculture's (USDA) school nutrition programs. School nutrition programs include the National School Lunch Program (NSLP), School Breakfast Program (SBP), After-school Snack Program (ASP), Summer Summer Option (SSO) of the NSLP, Special Milk Program (SMP), and Fresh Fruit and Vegetable Program (FFVP). Schools and institutions are required to make reasonable meal modifications for children whose physical or mental impairment restricts their diet. For guidance on meal modifications and instructions for completing this form, see the Florida Department of Agriculture and Consumer Services' (FDACS) document, *Guidance and Instructions: Medical Statements for Meal Modifications in School Nutrition Programs*.

Please Note: For enhanced medical statements, the USDA requires the parent/guardian include: 1) information about the child's physical or mental impairment that is sufficient to allow the school food authority (SFA) to understand how the physical or mental impairment restricts the child's diet; 2) detailed steps or an explanation of what must be done to accommodate the child's disability; and 3) if appropriate, the food or foods to be omitted and recommended alternatives. Schools and institutions should not deny or delay a requested meal modification because the medical statement does not provide sufficient information. When necessary, schools and institutions should work with the child's parent or guardian to obtain the required information.

Section A – Completed by parent or guardian

1. Name of child: _____ 2. Birth date: _____
 3. Name of parent or guardian: _____
 4. Phone number (with area code): _____ 5. E-mail address: _____
 Address: _____ City: _____ State: _____ Zip: _____
 7. In accordance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Family Educational Rights and Privacy Act (FERPA), I hereby authorize _____ *parent name of child's recognized medical authority* to release such pertinent health information of my child as is necessary for the specific purpose of special diet information to _____ *parent name of child's dietitian* and I consent to allow the recognized medical authority to freely exchange the information listed on this form and in my child's records with the school dietitian as necessary. I understand that I may refuse to sign this authorization without impact on the eligibility of my request for a special diet for my child. I understand that I may revoke permission to release this information at any time, except when the information has already been released.

8. Signature of parent or guardian: _____ 9. Date: _____

Section B – Completed by child's recognized medical authority

This section must be completed by the child's physician, physician assistant, doctor of osteopathy, or advanced practice registered nurse (APRN). APRNs include nurse practitioners, clinical nurse specialists, and certified nurse midwives who are licensed as APRNs.

10. Physical or mental impairment: Does the child have a physical or mental impairment that restricts the child's diet?
 No Yes: Describe in detail how the child's physical or mental impairment restricts the child's diet: _____

11. Diet plan: Explain the diet/meal modification for the child. Attach a specific diet/meal plan, if needed.

- FNW has prepared a new template/special diet request with broader termed “Meal Accommodations for

Students with Disabilities”
to better address special
dietary needs. This
comprehensive Medical
Statement will provide
parents/guardians more
than just a way to
communicate foods that
need to be avoided or
substituted, but also a

way to address access to the integrated environment for students with physical disabilities or feeding concerns. The Statement provides sufficient information about impairment (diagnosis not required and should not be requested), how it

restricts diet, and how to accommodate condition

Schools and food service providers are required to make meal modifications when supported by medical documentation.

The medical statement must provide sufficient information about the impairment. A diagnosis is not required in a medical statement and again, it should not be requested. The statement must describe how a food restricts the diet and how to accommodate the condition.

If the documentation is insufficient or unclear, seek clarification. Do not contact the student's physician for clarification or request medical records or history

Work with the parents and guardians when seeking clarification.

When seeking clarification, do not unnecessarily delay modification. Any delay could be characterized as harassment or denial.

The medical statement need not be from a physician if State law authorizes others to write prescriptions.

Medical Statement may be requested, but is not required for substitutions within meal pattern

requirements

Meal Modifications for Food Allergies

FOOD ALLERGY RELATED MEDICAL STATEMENT MUST INCLUDE 3 ESSENTIAL COMPONENTS:

The food(s) to be avoided

Brief explanation of how exposure to the food(s) affects the student

Recommended food substitutions

If disability is related to a food allergy, the medical statement should document:

1. The existence of a mental or physical impairment (the food(s) to be avoided)
2. The way in which the impairment impacts the student (how exposure affects the student)
3. The modification needed (substitutions recommended)

IMPLEMENTATION



- SPONSOR MUST DEVELOP PROCEDURES FOR PARENT/GUARDIAN TO REQUEST MODIFICATIONS
- TRAIN SCHOOL AND FOOD SERVICE STAFF
- APPOINT A 504 COORDINATOR
- ASSEMBLE A TEAM (BEST PRACTICE)

Assembling a Team to implement meal modifications guidelines and to render decisions on modification requests is highly recommended.

- Section 504/ADA Coordinator,
- member of school medical staff provide technical assistance on disability compliance
- member of food service staff, and
- principal/Program director

Any request for a modification related to the meal or meal service should be forwarded to the Section 504/ADA Coordinator and reviewed by the team.

The Section 504/ADA team will work with the child’s parents or guardian to review the request and develop a solution as quickly as possible.

Procedural Safeguards

PROVIDE NOTICE OR INFORMATION OF THE:

- PROCESS FOR REQUESTING MODIFICATION
- DECISIONS REGARDING REQUESTS
- PROCEDURAL RIGHTS
- OPPORTUNITY TO EXAMINE THE RECORD
- PROCESSES TO FILE A GRIEVANCE
- ALLOWANCE TO REQUEST AN IMPARTIAL HEARING
- REVIEW OF PROCEDURES

Procedural Safeguards

Under the Procedural Safeguards requirement, LEAs (Local Educational Agency) must provide a process for the prompt resolution of grievances that includes the option for an impartial hearing [7 CFR 15b]. Specifically, the Procedural Safeguards process requires LEAs to provide notice and information to parents and guardians regarding how to request a reasonable modification.

This notice must be in a language and alternate format that the parents, guardians and students can understand.

In the event that a sponsor declines a modification request, the sponsor must ensure that the child's parent or guardian understands their procedural rights which include the right to:

- File a grievance if they believe a violation has occurred regarding the request for a reasonable modification;
- Receive a prompt and equitable resolution of the 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.

School Food Service Scenarios



The following scenarios are examples of practical application of what we have discussed.

Question:

Many children in an elementary school have a peanut allergy. Should the school go “peanut-free?”

Response:

Universal exclusion of specific foods (or food groups) is not FNS policy but could be appropriate depending on local circumstances.

However, if a school chooses to enact a universal ban, the specific allergen must never be present in the school, as the family will assume the school is a safe place for their child based on the stated ban.

Read question click once to provide answer

Question:

A child with autism is very sensitive to food textures and will only eat foods with a smooth texture. Is the child's condition considered a disability? If so, must the school food service make a modification for the child?

Response:

Yes. According to the ADA, any physical or mental impairment impacting the "major life activity" of eating is considered a disability.

Some children with autism have sensory sensitivities and prefer food of a certain texture or color.

They may require the same foods every day and need to maintain a regular routine.

If a child's autism impacts their ability to consume Program meals, the sponsor must provide a reasonable modification.

Read question click once to provide answer

Question:

The “regular” menu item for lunch at the local middle school is whole grain rich pasta with cheese and vegetable toppings. Must the school food service director prepare whole grain rich pasta with lactose-free cheese and vegetable toppings for a child with lactose intolerance?

Response:

No. In a disability situation, the meal modification or meal item substituted does not need to mirror the menu item offered each day.

The sponsor’s responsibility is to serve the child a safe meal that accommodates their disability, not to mirror the Program meal served that day.

In the example used in this question, the sponsor would not be required to serve a whole grain rich pasta dish and could instead serve a different meal that meets the child’s modification request, such as a sandwich with whole grain rich bread.

Read question click once to provide answer

Additional Resources/Guidance

- *Food Allergy Resources* (Institute of Child Nutrition):
<https://theicn.org/icn-resources-a-z/food-allergies-for-school-nutrition-directors/>
- *School Tools: Allergy & Asthma Resources for Families, Clinicians and School Nurses* (American Academy of Allergy, Asthma & Immunology):
<http://www.aaaai.org/conditions-and-treatments/school-tools>
- *Managing Food Allergies in Schools* (Centers for Disease Control):
<https://www.cdc.gov/healthyschools/foodallergies/index.htm>
- *Food Intolerance vs Food Allergy* (American Academy of Allergy, Asthma, & Immunology):
<https://www.aaaai.org/conditions-and-treatments/library/allergy-library/food-intolerance>
- *Food Problems: Is it an Allergy or Intolerance?* (Cleveland Clinic):
<https://my.clevelandclinic.org/health/diseases/10009-food-problems-is-it-an-allergy-or-intolerance>

Additional Resources/Guidance

[CICN Menu Strategies for Special Diets and Allergens](#)

[SP 26-2017: Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers \(Q&As\), April 25, 2017](#)

[Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs \(cdc.gov\)](#)

[Guidelines for Managing Allergies in Schools 12-2020 \(nationalpeanutboard.org\)](#)

The FASTER Act – new legislation making sesame the 9th common allergen

[Food Allergy Safety, Treatment, Education, and Research Act of 2021 - Public Law 117-11](#)

Civil Rights Plan

- LEP – Limited English Proficiency
- Meal Modifications for Children with Disabilities

There's one last thing we would like you to know. As part of your Civil right training, you are required to developed a civil right plan for your sponsorship. In other words, how your sponsorship plans to train your staff on an annual basis. We want to stress the importance of including LEP – Limited English Proficiency and Meal Modifications for Children with Disabilities as part of that annual training plan.

This plan should also help address any civil rights issues or scenarios that you may encounter. You can contact your Training and Technical Assistance Specialist with any questions in building your plans.

In accordance with federal civil rights 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, disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, 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.

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: <https://www.usda.gov/sites/default/files/documents/ad-3027.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:

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:** (833) 256-1665 or (202) 690-7442; or
3. **email:** Program.intake@usda.gov.

4/24/23



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Florida Department of Agriculture and Consumer Services

This concludes our webinar; at this time, we will answer questions you have in the question box. Remember, if you were a registered attendee, then our webinar software will email you a certificate to you one hour after this training concludes and can go towards your professional standards.