

CACFP Administrative Handbook

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6. Civil Rights

Civil Rights Laws

Child Nutrition Programs have always been available to all children on an equal opportunity basis. In 1983 the U.S. Department of Justice issued civil rights compliance requirements for all federal agencies based on the following legislation:

- ◆ Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin
- ◆ Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex
- ◆ Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability
- ◆ Age Discrimination Act of 1975, which prohibits discrimination based on age

Requirements

All centers and sponsors of day care homes must comply with all rules and regulations governing nondiscrimination in the administration of Child Nutrition Programs as given in FNS Civil Rights Instruction 113-1. Upon application for the CACFP, all sponsors will be evaluated for compliance with civil rights requirements.

- ◆ USDA prohibits discrimination on the basis of race, color, national origin, sex (including gender identity and sexual orientation), age, or disability.
- ◆ Make CACFP information available to the public upon request.
- ◆ Ensure that protected classes are not discriminated against by having their access to benefits denied, delayed, or by being treated differently.
- ◆ Provide CACFP information to families of potential beneficiaries. Parents/guardians must be notified that the facility is participating in the Child and Adult Care Food Program. Sponsors must either post the notification in each facility (a poster entitled [USDA Building for the Future](#)), or give each parent/guardian the notification upon initial enrollment (a copy of the [USDA Building for the Future](#) pamphlet). If the organization uses another method of parental notification, the form must be approved by KSDE.
- ◆ Provide informational materials concerning the availability and nutritional benefits of the CACFP in the appropriate non-English translation. Spanish translations of the [USDA Building for the Future poster](#) and the [USDA Building for the Future pamphlet](#) are available.
- ◆ USDA translations in Spanish and many additional languages may be downloaded from <https://www.fns.usda.gov/cacfp/english-meal-benefit-income-eligibility-form>. If using USDA's translations, also download their English version so that the determining official can more readily interpret the information provided by applicants.
- ◆ Establish procedures that effectively restrict access to CACFP records to authorized personnel only.

- ◆ Make information about program requirements and the procedure for filing a complaint available to non-English speaking persons in their language.
- ◆ Provide participants with disabilities substitutions in foods when supported by a statement signed by a medical authority that is authorized by Kansas state law to write medical prescriptions: licensed physician (MD or DO) or a physician’s assistant (PA) or an advanced practice registered nurse (APRN) authorized by their responsible licensed physician. The supporting statement shall identify:
 - The child’s disability and an indication of why the disability restricts the child’s diet.
 - The major life activity affected by the disability.
 - The food or foods to be omitted from the child’s diet and the food or foods that must be substituted.

Sponsors must make every effort to obtain food substitutions prescribed by the medical authority. For further information concerning providing special diets for participants with disabilities, refer to Chapter 4 of the CACFP Administrative Handbook.

- ◆ Annually collect racial/ethnic data for all actual beneficiaries and the estimated number of potential eligible beneficiaries. Separate categories are to be used when collecting and reporting race and ethnicity. Ethnicity is collected first: (1) Hispanic or Latino, or (2) Not Hispanic or Latino. The race designation(s) is collected second: (1) White, (2) Black or African American, (3) American Indian or Alaskan Native, (4) Asian, or (5) Native Hawaiian or other Pacific Islander. The respondent may select one or more racial designations.

Ethnic & Racial Classifications

Ethnicity:

H = *Hispanic or Latino.* A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”

N = *Not Hispanic or Latino.*

Race:

W = *White.* A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

B = *Black or African American.* A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to ‘Black or African American.’

I = *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

A = *Asian.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

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

Collection of Race and Ethnicity Data

CACFP 11-2021 states visual observation and identification by CACFP institutions and facilities (and SFSP sponsors) is no longer an allowable practice for program operators to use during the collection of race or ethnicity data. In response to this 2021 policy memo, USDA recently released questions and answers (CACFP 09-2022) in June 2022.

The preferred method remains self-identification and self-reporting. CACFP institutions and facilities should continue explaining the importance of this data to participants as they encourage them to self-identify and self-report. However, there are alternative means by which CACFP institutions and facilities can obtain race or ethnicity data such as utilizing data from other sources in which the respondent has self-identified race or ethnicity such as school databases.

Data can be accessed for Kansas schools at https://datacentral.ksde.org/report_gen.aspx, Headcount Enrollment by Grade, Race & Gender.

Q *What are some sources other than school data that sites that do not require enrollment (non-enrolled sites) can use to obtain aggregate racial and ethnic data during the grace period?*

- A**
- Non-enrolled sites may use Census' American Community Survey (ACS)10 at www.census.gov/programs-surveys/acs/, which provides racial and ethnic data by multiple types of geographic areas. The ACS includes an age category of 0 to 5 years of age for racial and ethnic data and data for adults.
 - The ACS also provides data for very small locations, like housing units, through the Public Use Microdata Sample files at www.census.gov/programs-surveys/acs/microdata.html.
 - Sites may also wish to use data from the National Center for Education Statistics Common Core of Data database at <https://nces.ed.gov/ccd/schoolsearch/>, which provides data by school.

Q *Can you provide a summary of data collection methods that may be used for sites that do not require enrollment?*

- A** Aggregate Data
- Use the Census' American Community Survey at www.census.gov/programs-surveys/acs/ to obtain localized aggregate data on the population to be served.
 - Use racial and ethnic data obtained from the National Center for Education Statistics Common Core of Data database at <https://nces.ed.gov/ccd/schoolsearch/> to search the specific school on the population to be served.
 - Use aggregate school enrollment data to obtain localized data on the population to be served for sites that are operated at the same school or at a site located in the area served by a school.

Nondiscrimination Statement and Guidance

All federal programs require a USDA non-discrimination poster to be displayed in view of CACFP recipients. The current poster is green and features a picture of the USDA Building in Washington, D.C. This poster may not be reproduced. If additional or replacement copies are needed, please contact Child Nutrition & Wellness.

Ensure that all forms of communication and program materials regarding the CNP that are printed for public information, public education or public distribution include the following nondiscrimination statement and procedure for filing a complaint.

The complete nondiscrimination statement printed below can also be found at <https://cnw.ksde.org>.

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.

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, audiotope, 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/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.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; or

(2) fax:

(833) 256-1665 or (202) 690-7442; or

(3) email:

program.intake@usda.gov

If the material is too small to permit the full statement to be included (such as brochures, flyers, and other media of less than a page), the material will, at a minimum, include USDA's short nondiscrimination statement in print no smaller than the text:

This institution is an equal opportunity provider.

Civil Rights Complaints

Any person alleging discrimination based on a protected class has the right to file a complaint within 180 days of the alleged discriminatory action.

- ◆ When a complaint of discrimination is received, immediately contact U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Civil rights complaints may be made to federal, state, or local agencies. Any complaint received by KSDE will be forwarded to the USDA Mountain Plains Regional Office in Denver, Colorado.
- ◆ Provide the [Civil Rights Complaint Form](#) to any individual wishing to make a complaint of discrimination. Use of the form cannot be required for acceptance of a complaint.
- ◆ If the complaint is made verbally or through a phone conversation, the person accepting the complaint must write up the complaint, making an attempt to collect the elements of the complaint. Every effort should be made to have the complainant provide the following information:
 - Name, address, and phone number or other means of contacting the complainant.
 - The specific location and name of the sponsor/facility where the alleged discriminatory action occurred.
 - The nature of the incident or action that led the complainant to feel discrimination was a factor.
 - The basis on which the complainant believed discrimination exists (race, color, national origin, age, disability, or sex).
 - The names, phone numbers, titles, and addresses of persons who may have knowledge of the alleged discriminatory action.
 - The date(s) during which the alleged discriminatory actions occurred.
- ◆ When a complaint can be resolved informally, use “Alternative Dispute Resolution” (ADR) techniques which may include fact-finding, mediation, facilitating, or conciliation. One common element in all of the ADR techniques is the presence of a person who acts as the facilitator. This facilitator is a neutral person who works with the parties to help them develop an agreeable resolution to their problem.
- ◆ Cooperate with the civil rights compliance review conducted by Child Nutrition & Wellness, KSDE. This review will establish whether or not the sponsor has met all the obligations for administering the programs with equal access.

Civil Rights Training

Each sponsor is required to provide annual Civil Rights Training to all employees who interact with program applicants or participants regarding program services and benefits. The Annual Civil Rights Training Documentation should be maintained on file with signatures of employees trained and be included on the Verification of Staff Training form. The training must include, but not be limited to:

- ◆ Collection and use of data
- ◆ Effective public notification systems
- ◆ Complaint procedures
- ◆ Compliance review techniques
- ◆ Resolution of noncompliance
- ◆ Requirements for reasonable accommodation of persons with disabilities
- ◆ Requirements for language assistance
- ◆ Conflict resolution
- ◆ Customer service