

# Monthly Update

## Child & Adult Care Food Program



May 19, 2022

*Distributed to CACFP Authorized Representatives and Home Sponsors via Listserv*

*As posted to [www.kn-eat.org](http://www.kn-eat.org), Child and Adult Care Food Program, Updates from CNW*

### **New Civil Rights Guidance – Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update (CRD 01-2022)**

This memorandum clarifies prohibitions against discrimination based on sex in all FNS programs found in Title IX of the Education Amendments of 1972; the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program (7 USC § 2011 et seq.); and related implementing regulations that prohibit discrimination on the basis of gender identity and sexual orientation.

Program operators should expeditiously review their program discrimination complaint procedures and make any changes necessary to ensure complaints alleging discrimination on the basis of gender identity and sexual orientation are processed and evaluated as complaints of discrimination on the basis of sex. The changes impact the USDA Nondiscrimination Statement (NDS) and the *And Justice for All* (AJFA) posters.

### **New Nondiscrimination 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 (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](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

All documents, pamphlets, websites, etc. should be updated with the 2022 NDS as follows:

- Websites must be updated within 90 days of the date of this memorandum.
- Documents, pamphlets, brochures, etc., using 2015 NDS language must be updated when current supply on hand is exhausted or by September 30, 2023.
- All new printing must use the 2022 NDS.

### **And Justice for All (AJFA) Posters**

New *And Justice for All* posters are in the design/printing phase and guidance on poster ordering will be provided once KSDE receives the new posters. A timeline for distribution cannot be determined until printing commences. Until the new posters are received, additional guidance is outlined below.

- Local agencies may request the 2019 AJFA posters from KSDE until our supply is exhausted or new posters are received.
- AJFA posters currently posted must **NOT** be removed until replaced with the new poster.
- The 2019 AJFA poster(s) language should be updated on websites, training presentations and any pending printing of brochures, pamphlets and materials and replaced with the appropriate 2022 version.

### **Questions and Answers Related to CRD 01-2022 Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update (CRD 02-2022)**

#### **Q. What next steps must be taken by State Agencies and program operators?**

**A.** State Agencies and program operators will have to update their program discrimination complaint processing procedures for allegations related to services and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and gender identity discrimination are processed as complaints of prohibited sex discrimination. Additionally, State Agencies and program operators will need to update their Nondiscrimination Statements and order new *And Justice for All* posters that reference gender identity and sexual orientation discrimination. The updated FNS Nondiscrimination Statement will be available in multiple languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>. Additional guidance will be issued by FNS CRD specifically addressing these two topics.

#### **Q. When should program operators and State Agencies update the Nondiscrimination Statement and the *And Justice for All* posters?**

**A.** Although CRD 01-2022 *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update* is effective immediately, additional guidance is forthcoming. We will work with State Agencies and program operators on the timing for updating documents and materials to include the updated Nondiscrimination Statement. Items that can be changed without further guidance should be updated as soon as possible (websites for example). Additional guidance for timelines and implementation will be provided in a separate memorandum.

**Q. What should program operators and State Agencies do with old *And Justice for All* posters?**

A. Currently, updated *And Justice for All* posters are in production and will be available in the coming months. State Agencies and program operators must continue to display the applicable version of the poster dated September 2019, until updated *And Justice for All* posters are ordered and received. Guidance on poster ordering and display is forthcoming from USDA.

**Q. What if a State Agency or program operator does not currently have an *And Justice For All* poster displayed?**

A. Contact KSDE for guidance.

**Q. How do you request a religious exemption with the U.S. Department of Agriculture?**

A. Under U.S. Department of Agriculture (USDA) regulation 7 CFR 15a.205, educational institutions and other entities may claim an exemption from the provisions of Title IX by submitting a written declaration to the Secretary of Agriculture identifying the provisions that conflict with a specific tenet of the religious organization. USDA's Postal Service mailing address is: U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington, DC 20250.

**Q. Will a finding be issued for non-compliance with the updated *And Justice for All* poster and Nondiscrimination Statement?**

A. During the grace period, findings will not be issued if the State Agency or Program Operator is unable to display the updated *And Justice for All* poster and incorporate the Nondiscrimination Statement on documents and materials. Once the grace period(s) have expired for ordering and displaying posters and reprinting documents, a State agency or program operator must demonstrate efforts taken to comply with the guidance provided before a determination is made to issue a finding of noncompliance. Additional guidance on timelines and implementation will be provided in a separate memorandum. Please note there will not be a grace period for accepting and processing discrimination complaints based on sexual orientation and gender identity in FNS programs.

**New USDA Guidance****Area Eligibility for Summer 2022 and School Year 2022-23 (CACFP 08-2022)**

This memorandum provides guidance to establish area eligibility in the Child Nutrition Programs for summer 2022 and SY 2022-2023. This guidance applies to State agencies administering, and local organizations operating the Child and Adult Care Food Program At-Risk Afterschool Meals and family day care homes. Since the Seamless Summer Option (SSO) was available to use during SY 2021-2022, School Food Authorities (SFAs) do not have complete free and reduced price eligibility information to make area eligibility determinations for Summer 2022 and SY 2022-2023. Note: Data from SY 2021-2022 in KSDE Data Central cannot be used for Child Nutrition Eligibility determinations.

Therefore, USDA is offering two additional data options that sites may use to qualify as area eligible for summer 2022 and SY 2022-2023. Both options are available to Program operators as applicable, including SFAs and non-SFAs, who wish to use school data to make area eligibility determinations.

**Option1: Use of School Year 2019-2020 Free and Reduced Price Application Data**

In the absence of complete SY 2021-2022 school-level free and reduced price data, Program operators may use school data from a designated month of SY 2019-2020 to qualify as area eligible in summer 2022 and SY 2022-2023. CACFP Program operators must use data from October 2019. Area eligibility determinations made using school data must be re-determined every 5 years, therefore area eligibility determinations made using SY 2019-2020 data are effective through summer 2024 or SY 2024-2025 and SY2020-2021 data will expire summer 2025 or SY 2025-2026.



## Option 2: Allow All Schools to Use Community Eligibility Provision Data

Schools that operated SSO during SY 2021-2022 do not have complete free and reduced price data necessary to establish area eligibility. However, these schools were required to conduct direct certification with Food Assistance and continued to collect data on other “identified students,” including those directly certified with other programs or who would have been categorically eligible for free school meals without an application. For Community Eligibility Provision (CEP) schools, the 1.6 multiplier provides an estimate of the total number of students eligible for free and reduced price meals in CEP schools; therefore, the product of the identified student percentage (ISP) multiplied by 1.6 is used as a proxy for the percentage of free and reduced price students for area eligibility purposes. If the result is equal to or greater than 50 percent, meal sites located at the school (or in the attendance area of the school) are area eligible. Although **only schools that operated SSO during SY 2021-2022 may determine area eligibility using this option**, as noted above, once area eligibility is established all NSLP afterschool snack program, SSO, CACFP at-risk afterschool and family day care homes, and SFSP operators may establish sites based on the determination. CACFP Sponsors would need to contact their local school food service director to determine if this option could be used to determine area eligibility.

## Keeping Infants Safe in Midst of Formula Shortages

The Food and Drug Administration (FDA) is responsible for taking steps to ensure the safety of infant formula while also ensuring that supply can be met when these steps are taken. FDA recently published a [press release](#) highlighting actions it is taking to address formula supply shortages including working with major infant formula manufacturers to increase supply and helping to ensure that Abbott’s Sturgis facility can safely resume production.

USDA understands that supply shortages are impacting USDA program participants differently depending on where they live and what their specific formula needs are. USDA continues to work closely with the FDA on the impact of the recall on the infant formula supply in the WIC Program and is also aware that CACFP providers are facing challenges.

As formula challenges persist, FNS is encouraging State agencies to encourage program providers and participants to work with their child’s health care provider for recommendations on other ways to feed their baby or toddler if their regular formula is not available. In addition, please continue to promote safe feeding practice for infants including the following resources:

1. [USDA Infant Formula Safety website](#) - contains key messages for consumers on infant formula safety, and links to other helpful government resources.
2. [Questions and Answers for Consumers on Infant Formula](#) - FDA question #12 addresses homemade infant formula.
3. [Powdered Infant Formula Preparation and Storage](#) - links to CDC guidance on preparing infant formula.
4. [Is Homemade Baby Formula Safe](#) - an informative AAP web article on the topic of homemade formula.

Some steps that can be taken to ensure the safety of infants include:

- **Learn more about choosing an infant formula that’s safe for a baby.**
- **Do not feed a baby cow’s milk** or other non-dairy milks until 1 year old, unless you’ve talked to the child’s pediatrician.



- **Don't make homemade infant formula or water down formula;** there are [serious health and safety](#) concerns.
- **Do not buy formula online that comes from outside the U.S.,** which could be [counterfeit](#), have a fake label or a wrong use-by date.
- **Prepare and store infant formula according to the manufacturer's instructions;** do not [water down](#) formula.
- **Properly clean, sanitize and store infant feeding items.**
- **Always wash your hands** when handling formula and feeding items.
- **Talk to a pediatrician about introducing complementary foods by 6 months (no earlier than 4 months).** Visit [MyPlate](#) to learn more.

Please note: Only medical professionals are qualified to provide advice on acceptable alternatives to formulas that may currently be difficult to find. The American Academy of Pediatrics offers [tips for parents and caregivers who are struggling to find baby formula during the shortage](#). Please talk with your pediatrician about safe and appropriate feeding alternatives for infants if needed.

### Food Allergy Awareness Month

May is Food Allergy Awareness Month. Did you know that 32 million Americans live with potentially life-threatening food allergies? Or that every 3 minutes a food allergy reaction sends someone to the emergency room?

The Office of Food Safety (OFS) would like to highlight an opportunity to learn more about food allergies through a webinar later in May. We would also like to share some recent food allergy resources that are available for a number of audiences served by FNS programs. We invite you to learn more about food allergies in an upcoming Institute of Child Nutrition (ICN) School Nutrition STAR Program webinar on May 26. In observance of Food Allergy Awareness Month, ICN will host speakers from [Food Allergy Research and Education \(FARE\)](#). OFS and ICN will also briefly speak about their resources and how they work together to support program operators in this area.

Join the webinar to learn more about:

- The Office of Food Safety's support of food allergy education and awareness
- ICN's food allergy course and micro learning strategies for school nutrition
- FARE's commitment to enhancing the lives of those with food allergies
- A school nutrition operator's success story

Click [here](#) for more information about the May webinar and to register.

The Office of Food Safety partners with the Institute of Child Nutrition (ICN) to offer food allergy resources tailored for specific audiences. Here are several resources that have been published in recent months. All of these fact sheets, and more food allergy resources, are available through ICN's Food Safety page: [Food Safety Resources – Institute of Child Nutrition \(theicn.org\)](#)

As you may know, the [Food Allergy Safety, Treatment, Education, and Research Act of 2021](#) (FASTER Act of 2021) requires sesame to be recognized as the ninth major food allergen by the U.S. Food and Drug Administration beginning January 1, 2023. Food manufacturers may begin listing sesame as an allergen on their labels at any time between now and that date. In preparation for this change, several of these recent resources contain information on managing sesame allergies.



- **Adult Day Care Food Allergy Fact Sheets:** New food allergy fact sheets for adult day care program providers offer information about all eight major food allergens, managing food allergies in adult day cares, and common questions about food allergies. Included is a fact sheet on sesame, which will be recognized as the ninth major food allergen next year.
- **Child Care Center Food Allergy Fact Sheets:** New food allergy fact sheets for child care centers provide information about all eight major food allergens, including foods and products that may contain allergens, how to read food labels to identify allergens, menu modifications, and food allergy symptoms. Also included is a fact sheet on sesame, which will be recognized as the ninth major food allergen next year.
- **Family Child Care Food Allergy Fact Sheets:** New food allergy fact sheets for family child care providers offer information about the eight major food allergens, handling a food allergy emergency, reading food labels for allergens, avoiding cross-contact, and making meal modifications for children with food allergies. Also included is a fact sheet on sesame, which will be recognized as the ninth major food allergen next year.

### **Error in Let's Make a Snack! Child and Adult Care Food Program Snack Menu Planner for Children 3 Through 18 Years of Age**

FNS is currently making a correction to the "Let's Make a Snack! Child and Adult Care Food Program Snack Menu Planner for Children 3 Through 18 Years of Age" with a publication date of April 15, 2022, and removed it from the FNS web site on April 20, 2022. This publication included incorrect information about food intolerances. As per CACFP 14-2017, SFSP 10-2017, Modifications to Accommodate Disabilities in the Child and Adult Care Food Program and Summer Food Service Program, "A physical or mental impairment does not need to be life threatening to constitute a disability. It is enough that the impairment limits a major life activity. For example, digestion is a bodily function that is a major life activity. A child whose digestion is impaired by lactose intolerance may be a person with a disability, regardless of whether or not consuming milk causes the child severe distress." We regret any confusion as a result of the error in the menu planner, and will issue another notification once the revised version on the publication has been released.

### **CACFP Claims and State Year End**

April and May claims submitted by end of the day on June 13 will be paid and money deposited by June 17. If April or May claims are not submitted by the end of the day on June 13, payment will not be made until July due to the state fiscal year end closeout. Remember, the April claim deadline is June 29. Home Sponsors must submit May claims for Day Care Homes by 3 pm on June 13.

### **CACFP Serving Size for Breast Milk**

Did you know that if a breastfed baby regularly drinks less than the 4 oz. minimum amount of breast milk required with the CACFP meal pattern, providers may offer less than the minimum amount of breast milk at each feeding as long as more breast milk is offered later when the baby is hungry? The meal or snack is still reimbursable when less than the minimum amount of breast milk is offered in this situation. Remember, you may claim reimbursement of meals when a mother nurses her baby at your child care site. Child care providers participating in CACFP can receive reimbursement for meals and snacks when a mother has provided pumped breast milk or has breastfed her baby at your child care site even after the child's first birthday.





### Farm to Plate in the CACFP

Summer is the height of the growing season. A new School Gardening publication is available at [KSRE Bookstore - Considerations and Resources for School Garden Design in Kansas \[Order here\] \(ksu.edu\)](#) The pdf version is downloadable. There is a great Early Childhood and Preschool section with activities and lessons available. In addition to the garden templates [KSRE Bookstore - Garden Templates and Plant Choices for Kansas School Gardens \[Order here\] \(ksu.edu\)](#) there are colorful pictures of many vegetables with learning connections included.

### Administrative Workshop

Program Year 2022-23 CACFP Administrative Workshop will be offered via live webinar on Thursday, July 28 from 1:00 pm–4:00 pm via the following link:

<https://ksde.zoom.us/j/83262847685?pwd=cUpwQ0d1M1cxWTNGRUJKOG1peWY1UT09>. Sponsors unable to attend the live webinar training will have the opportunity to take the training through the KSDE Learning Portal at a later date. At least one representative from each Sponsor must complete the CACFP Administrative Workshop training.

For Sponsors that operate both the School Nutrition Program and CACFP, a live SNP Administrative Update/CACFP Administrative Workshop training will be held July 6, 8:00 am–12:00 pm via the following link: <https://ksde.zoom.us/j/88432205471?pwd=VIQ4Q2NKbmcvelY1djdFVk9KWFVGGQT09>

### CACFP Certification Webinar

Make plans to participate a CACFP Certification Webinar scheduled for Tuesday, August 2 at 1:30 pm via zoom. Join at: <https://ksde.zoom.us/j/85072053744?pwd=Ui82QVJ6bXkzQ292ZEtK3ZFdjVoQT09>

### Professional Development Update

Professional development is offered through the KSDE Training Portal 24/7 and as scheduled live virtual events through Zoom. A full listing of live virtual events and links can be found on the CNW Calendar at [www.kn-eat.org](http://www.kn-eat.org), CNW Calendar. There is no preregistration for the live virtual classes through Zoom.

Join CNW for upcoming culinary trainings which can be accessed using the following Zoom link:

<https://ksde.zoom.us/j/88640601491?pwd=NUQvT2VmWXhod2hoS2dZdIlkRW5DZz09>

- May Culinary Corner: Pep Up Your Menus with Peppers! May 25 at 2 pm. This segment will explore current food trends and feature the following recipes: sweet bell pepper nachos, salsa, inferno burger and more!
- June Culinary Corner: Make Your Menus Dairylicious! June 22 at 2pm. This segment will feature dairy recipes such as smoothies, baked cheese sticks, mac & cheese and more!
- Watch the May Quick Bite featuring dairy at:  
[https://www.youtube.com/playlist?list=PLd\\_2hYclboc\\_QUbcjw6GfQP7i2Zv2MHM](https://www.youtube.com/playlist?list=PLd_2hYclboc_QUbcjw6GfQP7i2Zv2MHM)

### Child Nutrition & Wellness KANSANS CAN 2021-22 Best Practice Awards

We encourage you and your staff to make nominations for outstanding and/or innovative practices for recognition of your heroic efforts this past program year. A simple one-page nomination entry form is available at [www.kn-eat.org](http://www.kn-eat.org), Child & Adult Care Food Program, What's New. **Nominations are due to the Child Nutrition & Wellness office on or before June 30, 2022.** Awardees will be notified by July 31 and presentations will be made at the August State Board of Education meeting. Please do not hesitate to contact any Child Nutrition & Wellness team member if we can be of assistance with the application process. We look forward to receiving your nominations and celebrating the Kansans CAN Best Practice Awards with you at the August 2022 State Board of Education Meeting.



### Child Care Providers are Appreciated!

Child Care Provider Appreciation Day on May 6 was a special day to recognize child care providers, teachers and other educators of young children! Thank you, child care providers, for your dedication, commitment and compassion each and every day. The Child Nutrition & Wellness team appreciates all you do to serve nutritious tasty meals and teach healthy habits to Kansas children in child care centers, day care homes and afterschool programs through the Child & Adult Care Food Program. View a “Thank You Message” from the CNW team at: <https://youtu.be/fyegvLW5qnM>. This message of appreciation can be shared in child care centers, day care homes and in social media celebrations. We sincerely appreciate YOU! #FuelingKSKids

As always, if you have questions or need assistance, please contact your local Child Nutrition Consultant or the Topeka Office!

### Cheryl, Jill and Julie



For more information, contact:

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