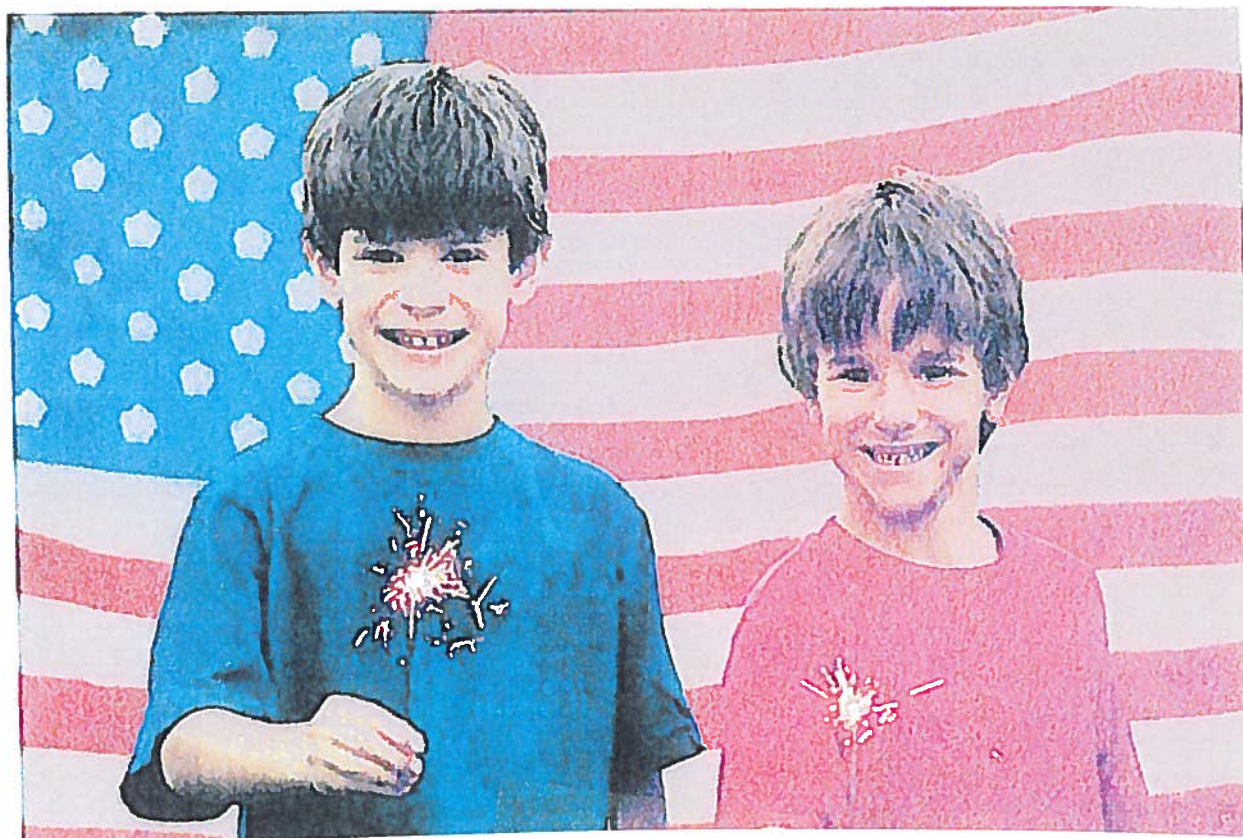


# CIVIL RIGHTS COMPLIANCE



STUDENT NUTRITION BUREAU  
NM PUBLIC EDUCATION DEPARTMENT  
120 S. FEDERAL PLACE, ROOM 207  
SANTA FE, NM 87501

PHONE: 505-827-1821

FAX: 505-827-1815

# CIVIL RIGHTS COMPLIANCE IN THE SCHOOL NUTRITION PROGRAMS

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## CIVIL RIGHTS ASSURANCE

### Responsibilities of each school:

To assure that child nutrition programs are made available and provided to all eligible individuals without discrimination.

United States Department of Agriculture regulations outline each school's responsibilities regarding civil rights compliance in child nutrition programs. The following procedures are required in order to assure that all participating schools comply with the civil rights regulations:

1. Inform parents or guardians of students, as well as local minority and grassroots organizations, of the availability of program benefits or services, the nondiscrimination policy, right to file a complaint, complaint procedures and all significant changes in existing requirements that pertain to program eligibility and benefits.

*Note: This may not be done through the news release and letter to parents sent home to the parents or guardians of each child enrolled.*

2. Include in all forms of communication and printed programs, such as enrollment forms, menus, parent/student handbooks, employee handbooks, newsletters, brochures and websites, the following information:

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing, or have speech disabilities may contact the USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.

*Note: The above nondiscrimination information, which is contained each year in the letter to parents, is an example of how this requirement may be met. If the document is no more than one page and there is no room to print the full nondiscrimination statement, agencies may use the following short version that must be the same print size as the rest of the text: "This institution is an equal opportunity provider." FNS Instruction 113-1, page 15(IX)(d)(2).*

3. Take reasonable steps to assure meaningful access of Limited English Speaking (LEP) applicants, participants, or potentially eligible participants to the child nutrition program information and services. If you need to provide non-English program information and forms, contact the Student Nutrition Bureau (SNB) at (505) 827-1821. *Reference page 12, Limited English Proficiency (LEP) Access.*
4. Make substitutions in the regular meal pattern for those children who are considered disabled according to regulation 7 CFR 15b.3 and whose disability restricts their diet in such a way that they cannot fully participate in the food service program without some modification. *See 7 CFR 210.10(g)(1*
5. Display the nondiscrimination poster at each site in a prominent place such as a visible, high-traffic area (not in the kitchen preparation area). *Reference Exhibits E and F, "...And Justice for All" Posters.* Choose one poster, either E or F, to display.
6. Process and log complaints alleging discrimination based on race, color, national origin, sex, age, or disability. A sample complaint form is provided herein. *Reference page 10, Sample, Discrimination Complaint Form.* This form may be used; the complaint may be made in another format or may be made verbally. All complaints, written or verbal, will be accepted by the Local Education Agency (LEA) and forwarded to the Student Nutrition Bureau, New Mexico Public Education Department, consistent with the complaint resolution procedures. *Reference page 7, Exhibit A, Discrimination Complaint Procedures.*
7. Maintain a data system that collects racial and ethnic makeup information about potentially eligible persons, program applicants, and participants. *Reference page 11, Civil Rights Compliance Worksheet.*

The actual number of children applying for free and reduced price meals and the number of students by racial/ethnic categories who have been approved or denied for free and reduced price meals should be collected each year and maintained on file for five years.

The method used to collect this information may include data observed by a school or school official, voluntary self-identification on the application form, or an estimate by a school official based on his/her knowledge of the ethnic breakdown of the students enrolled in the school. The racial/ethnic categories for which these records should be maintained are:

Mark one or more racial identities

- a. White
- b. Black or African American
- c. Asian
- d. American Indian or Alaskan Native
- e. Native Hawaiian or Other Pacific Islander

Mark one ethnic identity

- a. Hispanic or Latino
- b. Not Hispanic or Latino

A Civil Rights compliance worksheet should be completed every year for each school in the LEA. Please retain in your files; do **not** forward a copy to the SNB. A LEA's compliance with Civil Rights regulations and other program regulations will be verified during on-site administrative monitoring reviews. (Staff must be annually trained on civil rights).

### **NONDISCRIMINATION**

There must **not** be any discrimination against children receiving free or reduced price meal benefits including.

- The names of children must **not** be published, posted or announced in any manner.
- The children must **not** be required to work for their meals.
- The children must **not** be required to use a separate dining room, separate serving line, separate entrance or separate serving time.
- The children must **not** be offered a different meal.
- There must **not** be any overt identification of any of the children by use of special tokens or tickets. The LEA must use the collection procedure(s) approved as part of the free and reduced price meal policy statement.
- There must **not** be any discrimination on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department, in the application approval process or in the selection of applications for verification.

### **FEEDING CHILDREN WITH DISABILITIES**

A child with a disability has been defined under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as one who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities are defined to include functions

such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Further, Part B of the Individuals with Disabilities Education Act of 2004 (IDEA) defines a child with a disability as a child, evaluated in accordance with IDEA, having one or more of the recognized thirteen disability categories and who, by reason thereof, needs special education and related services.

#### **MEAL SUBSTITUTIONS FOR MEDICAL OR SPECIAL DIETARY REASONS**

Schools may, at their discretion, also make substitutions for individual children who are not disabled but who are unable to consume a food item because of medical or other special dietary needs.

This document is intended to relay the requirements for Federal Civil Rights compliance in the nutrition programs as provided in the Food and Nutrition Services (FNS) Instruction 113-1, issued by the United States Department of Agriculture (USDA).

## DISCRIMINATION COMPLAINTS

### PROCEDURE

**Right to File a Complaint:** Any person alleging discrimination has a right to file a complaint within 180 days of the alleged discriminatory action.

**How to File a Complaint:** Complaints may be filed in writing or verbally with any of the following offices:

**New Mexico Public Education Department**

**Student Nutrition Bureau**

120 S. Federal Place Rm. 207

Santa Fe, NM 87501

Phone: 505-827-1821

Fax: 505-827-1815

**USDA Office of Civil Rights (Regional Office)**

Regional Civil Rights Director

[Rebecca.Lucero@fns.usda.gov](mailto:Rebecca.Lucero@fns.usda.gov)

1100 Commerce Street Room 522

Dallas, TX 75242-9800

Phone: 214-290-9800

Fax: 214-767-9600

**USDA Office of Civil Rights (Headquarters)**

Director, Office of Adjudication

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

1400 Independence Avenue, SW

Washington, DC 20250-9410

Local phone: (202) 260-1026

Toll-free: (866) 632-9992

Fax: (202) 690-7442

A sample complaint form is included in Exhibit B; however, use of the sample form is not required.

**Verbal Complaints.** In the event that a complaint is made verbally, the person receiving the allegation will write up the complaint to include as much of the following information as possible:

- a. Name, address, and telephone number or other means of contacting the complainant.
- b. The specific location and name of the entity delivering the program service or benefit.
- c. The nature of the incident(s) or action(s) that led the complaint to be filed.

- d. The basis on which the complainant feels discrimination has occurred, i.e., race, color, national origin, sex, age or disability.
- e. The names, telephone numbers, titles and addresses of persons who may have knowledge of the discriminatory action(s).
- f. The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

**Confidentiality.** The sample complaint form is provided in accordance with the Privacy Act of 1974. The information collected during the investigation will be used to process the discrimination complaint. Disclosure is voluntary. Generally, the information will be kept confidential; however, the information may be disclosed to outside parties where the New Mexico Public Education's Student Nutrition Bureau (SNB) or USDA determine that disclosure is: 1) relevant and necessary to the Department of Justice, the court or other tribunal, or the other party before such tribunal for purposes of litigation; 2) necessary for enforcement proceedings against a program that USDA finds to have violated laws or regulations; 3) in response to a Congressional office if you have requested that the Congressional office inquire about your complaint, or; 4) to the United States Civil Rights Commission in response to its request for information.

**Acceptance.** As appropriate, notice of discrimination complaints will be sent directly to the USDA Office of Civil Rights. Verbal complaints, including anonymous complaints, will be accepted. Complainants will be notified of acceptance within 5 days.

**Age Discrimination.** If the complaint alleges age discrimination, the New Mexico Public Education Department (PED) will forward the complaint to the Food Nutrition Services (FNS) Regional Office of Civil Rights (OCR) within 5 working days after receipt. The FNS Regional OCR will refer the complaint to the Federal Mediation and Conciliation Service (FMCS) in Washington D.C. for mediation within 10 days of receipt. If FMCS mediation is successful, the case will be closed. If mediation is unsuccessful, FMCS will refer the complaint back to PED for processing through the complaint resolution procedures.

**Investigation.** If warranted, the PED or the FNS Regional OCR will investigate the complaint. The investigation will consist of: (1) contact with the complainant or authorized representative to review his/her case file; (2) review of a representative sample of case files of similarly situated program participants/applicants; and/or (3) contact with the state or local agency for a response to the allegations set forth in the complaint. If PED conducts the investigation, it will prepare and submit a preliminary decision report to the FNS Regional OCR for approval. If approved, the PED will issue the final decision. For complaints investigated by FNS Regional OCR, either the FNS Headquarters or FNS Regional OCR will issue the final decision.

**Decision.** The decision letter will contain: the name of the complainant, a review number, the date the complaint was received, a statement of the jurisdictional authority, a statement of each allegation and applicable regulations, if any investigation is warranted, the methodology on how the complaint was investigated, and the conclusions. All decision letters to complainants will include their appeal rights to the Secretary of Agriculture.

**Timeframe.** All complaints alleging discrimination or harassment will be processed within ninety (90) days of receipt.



**Maintain Records.** All complaints, investigations, final decisions and implementation of necessary corrective actions will be documented in a complaint log.

**Informal Resolution.** The PED encourages individuals to discuss their concerns with appropriate officials before resorting to a formal complaint. However, individuals are not required to do so before filing, either in writing or verbally, a formal complaint.

**SAMPLE**  
**DISCRIMINATION COMPLAINT FORM**

1. Name: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Telephone Number: \_\_\_\_\_
4. List other ways to contact you: \_\_\_\_\_
5. Name and location of person(s) or organization you are filing a complaint against:
6. Tell what incident(s) happened that made you feel you had been discriminated against and the date(s) it/they occurred.
7. On what basis does the complaintant believe he or she was discriminated against i.e., (age, sex, color, national origin, race or disability)?
8. List name(s), title(s), address(es) of person(s) having knowledge of discriminatory action(s).

<u>Name</u>	<u>Title</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

All complaints, written or verbal, will be accepted by the Local Education Agency and forwarded to the Student Nutrition Bureau, New Mexico Public Education Department.

Local Education Agency \_\_\_\_\_

Date of Completion \_\_\_\_\_

**CIVIL RIGHTS COMPLIANCE WORKSHEET**

United States Department of Agriculture regulations (FNS 113-6) outline each school's responsibility regarding Civil Rights compliance in the child nutrition programs. Complete this form and file. **Do not send to the state agency.** The following checklist below furnished an overview of requirements.

	Check		"Yes"	"No"
1. Does the letter to parents include:  (a) The required nondiscrimination statement? In the operation of the Child Nutrition Programs, no person will be discriminated against because of race, Color, sex, national origin, age or disability.  (b) Where a complaint may be filed?  If you wish to file a Civil Rights program complaint of discrimination, complete the <a href="http://www.ascr.usda.gov/complaint_filing_cust.html">USDA Program Discrimination Complaint Form</a> (PDF), found online at <a href="http://www.ascr.usda.gov/complaint_filing_cust.html">http://www.ascr.usda.gov/complaint_filing_cust.html</a> , or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at <a href="mailto:program.intake@usda.gov">program.intake@usda.gov</a> .				
2. Is the correct nondiscrimination statement included on all publications, pamphlets and information materials?				
3. Have any complaints of discrimination (written or verbal) been received this school year? If so, were they forwarded to the Student Nutrition Bureau (SNB) of the New Mexico Public Education Department				
4. Is the nondiscrimination poster displayed in a prominent place in each school? (Contact the SNB for a copy of the poster)				
5. Is the program information available to major employers contemplating large layoffs?				
6. Is there a need for program materials to be printed in a language other than English? (Enclosed in application/agreement.)				
7. Do admission procedures used restrict enrollment by minority person?				
8. Are students with disabilities provided program benefits as prescribed by regulations (Including special Dietary needs) as appropriate?				

9. Complete the following chart for each school in the Local Education Agency:*		
SCHOOL NAME: _____	Number Approved for Free/Reduced Price Meals	Number Denied
Mark one or more racial identities:		
White		
Black or African American		
Asian		
American Indian or Alaskan Native		
Native Hawaiian or other Pacific Islander		
Mark one ethnic identity:		
Hispanic or Latino		
Not Hispanic or Latino		
<b>TOTAL STUDENTS</b>		

If precise numbers cannot be obtained, an estimate by a school official should be used.

This form should be completed each year by December 15. The completed form will be reviewed during the course of a administrative review (**RETAIN IN YOUR FILES.**)

### LIMITED ENGLISH PROFICIENCY (LEP) ACCESS

All organizations receiving Federal financial assistance via participation in Child Nutrition Programs have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP).

Limited English Proficiency (LEP): Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

#### Primary factors to consider when determining “reasonable steps”:

- Number and proportion of LEP persons served or encountered in eligible population
  - The greater the number, the higher the need
- Frequency with which LEP individuals come in contact with program
- Nature and importance of program, activity, or service
  - Will denial of service cause a serious or life-threatening implication for potential participants?
- Resources available to the recipient and costs
  - Accessibility of a translator for applications, etc.
  - Availability of materials in various languages

#### Language Translations for Program Materials:

- Make Child Nutrition Program information available to all persons in their language
  - Provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the meal programs
  - Household applications in 34 other languages can be found at [www.fns.usda.gov/cnd/FRP/frp.process.htm](http://www.fns.usda.gov/cnd/FRP/frp.process.htm)

# ••••• AND JUSTICE FOR ALL

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

If you wish to file a Civil Rights program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form \(PDF\)](#), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

De acuerdo con la ley federal y las políticas del Departamento de Agricultura de los EE.UU. (USDA, sigla en inglés), se le prohíbe a esta institución que discrimine por razón de raza, color, origen, sexo, edad, o discapacidad.

Para presentar una queja sobre discriminación, escriba a USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20205-9410, o llame gratis al (866) 632-9992 (voz). Personas con discapacidad auditiva o del habla pueden contactar con USDA por medio del Servicio Federal de Relevo (Federal Relay Service) al (800) 845-6136 (español) o (800) 877-8339 (inglés). USDA es un proveedor y empleador que ofrece oportunidad igual para todas.

# "AND JUSTICE FOR ALL"



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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

De acuerdo a lo establecido por las leyes Federales y el Departamento de Agricultura de los EE.UU. (USDA, siglas en inglés), se prohíbe a este organismo la discriminación por raza, color, origen nacional, sexo, edad, religión, creencias políticas, o impedimentos de las personas. (No todas las bases de prohibición se aplican a todos los programas.)

Para presentar una queja sobre discriminación, escriba a USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410, o llame al (202) 720-5964 (voz y TDD). USDA es un proveedor y empleador que ofrece oportunidad igual a todos.

# HAVE QUESTIONS ABOUT STUDENT NUTRITION PROGRAMS?

- \*School Breakfast Program
- \*National School Lunch Program
- \*Special Milk Program
- \*After School Snack
- \*Seamless Summer

## By Mail:

Student Nutrition Bureau  
Public Education Department  
120 S. Federal Place  
Santa Fe, NM 87501

## By Phone

(505) 827-1821

## By Fax

(505) 827-1815

## Visit us on the Web:

<http://ped.state.nm.us/nutrition/index.html>