

CSBA Sample Board Policy

Business and Noninstructional Operations

BP 3555(a)

NUTRITION PROGRAM COMPLIANCE

Note: The following policy is **mandated** for any district **whose child nutrition programs that receives federal financial assistance for its participation in the (i.e., National School Lunch Program, School Breakfast Program, Special Milk Program, and/or other child nutrition program) receive state or federal funding. 5 CCR 4621 mandates that districts adopt uniform complaint procedures for the investigation and resolution of specified types of complaints, and 5 CCR 4610 makes those procedures applicable to allegations of unlawful discrimination, harassment, intimidation, bullying, or violation of state or federal laws governing educational programs, including child nutrition programs. See BP/AR 1312.3 - Uniform Complaint Procedures. Districts that do not receive any such financial assistance may delete this policy.**

State and federal law prohibit discrimination in such programs. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Vocational Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. Education Code 220 prohibits discrimination on all those bases and, in addition, on the basis of sexual orientation in all programs and activities in public schools.

The U.S. Department of Agriculture, Food and Nutrition Service (FNS) has authority to enforce federal laws in all nutrition programs and activities that receive federal funds. The California Department of Education (CDE) may also investigate complaints regarding discrimination through the uniform complaint procedures; see BP/AR 1312.3 - Uniform Complaint Procedures.

Various state and federal laws prohibit discrimination in district programs and activities on the basis of actual or perceived race, color, ancestry, national origin, ethnic group, age, religion, marital or parental status, disability, sex, sexual orientation, gender, gender identity or expression, or genetic information, or association with a person or group with one or more of these actual or perceived characteristics. See BP 0410 - Nondiscrimination in District Programs and Activities. 7 CFR 210.23, 215.7, and 220.7 specify that children must not be denied benefits or discriminated against in child nutrition programs on the basis of race, color, national origin, sex, age, or disability, and complaints alleging discrimination on any of these bases may be investigated by the California Department of Education (CDE) or the U.S. Department of Agriculture, Food and Nutrition Service (FNS).

The CDE's Civil Rights and Complaint Procedures for the U.S. Department of Agriculture Child Nutrition Programs and FNS Instruction 113-1, Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, provide guidance to districts on how best to comply with federal law.

The Governing Board recognizes the district's responsibility to comply with state and federal nondiscrimination laws as they apply to the district's nutrition programs. The district shall not deny any individual the benefits or service of any nutrition program or discriminate against him/her **because of his/her race, color, national origin, gender, sex, sexual orientation, disability, or any other on any** basis prohibited by law, **in its implementation of such a program.**

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 3550 - Food Service/Child Nutrition Program)

NUTRITION PROGRAM COMPLIANCE (continued)

(cf. 3552 - Summer Meal Program)
(cf. 3553 - Free and Reduced Price Meals)
(cf. 5030 - Student Wellness)

Coordinator

Note: In March 2010, The CDE's Nutrition Services Division's published its Civil Rights and Complaint Procedures for the Child Nutrition Programs to provide guidance and directions to enable districts comply with federal law. The publication was based on FNS's Civil Rights Compliance and Enforcement – Nutrition Programs and Activities, FNS Instruction 113-1, issued in 2005. According to the CDE's Civil Rights and Complaint Procedures for the Child Nutrition Programs, districts are required to appoint a civil rights coordinator to be responsible for ensuring district compliance with law governing child nutrition programs. The following paragraph may be revised to reflect district practice.

The Board designates the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures as **the district's civil rights** coordinator ~~of the district's efforts to comply to ensure compliance~~ with the laws governing its nutrition programs and to investigate any related complaints.

~~The coordinator shall provide training on the laws, regulations, procedures, and directives related to the district's nutrition programs to district employees involved in administering them. The coordinator also shall develop procedures and systems that do not restrict the participation of individuals in the district's nutrition programs, based on their race, ethnicity, or disability, and that prevent district employees from incorrectly denying the applications for participation submitted by such individuals.~~

~~The coordinator shall develop and maintain a system for collecting racial and ethnic data of participants in the district's nutrition programs and shall, at least annually, report to the Board on whether the district's nutrition programs are effectively reaching eligible individuals and whether and where additional outreach may be needed.~~

~~*(cf. 5022 – Students and Family Privacy Rights)*~~
~~*(cf. 5125 – Student Records)*~~

~~When a significant number of participants or potential participants in the district's nutrition programs are only non-English speakers, the coordinator shall make an appropriate language translation available.~~

~~*(cf. 5020 – Parent Rights and Responsibilities)*~~
~~*(cf. 6020 – Parent Involvement)*~~
~~*(cf. 6174 – English Language Learners)*~~

~~The coordinator also shall ensure that the district's nutrition programs accommodate the special dietary needs of any individual with a disability who has on file a medical statement that restricts his/her diet because of his/her disability.~~

NUTRITION PROGRAM COMPLIANCE (continued)

(cf. 5141.27 – Food Allergies/Special Dietary Needs)
(cf. 6159 – Individualized Education Program)
(cf. 6164.6 – Identification and Education Under Section 504)

Note: Items #1-10 below reflect the duties of the coordinator as provided in CDE's Civil Rights and Complaint Procedures for the Child Nutrition Programs.

The responsibilities of the compliance officer/coordinator include, but are not limited to:

- 1. Providing the name of the civil rights coordinator, Section 504 coordinator, and Title IX coordinator, if different from the civil rights coordinator, to the California Department of Education and other interested parties**

(cf. 6164.6 - Identification and Education Under Section 504)

- 2. Annually providing mandatory civil rights training to all frontline staff who interact with program applicants or participants and to those who supervise frontline staff**

Note: FNS Instruction 113-1 lists required components of training that must be provided to nutrition program staff, as provided below.

The subject matter of such training shall 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, and customer service.

- 3. Establishing admission and enrollment procedures that do not restrict enrollment of students on the basis of race, ethnicity, national origin, or disability, including preventing staff from incorrectly denying applications and ensuring that such persons have equal access to all programs**

(cf. 6159 - Individualized Education Program)

- 4. Sending a public release announcing the availability of the child nutrition programs and/or changes in the programs to public media and to community and grassroots organizations that interact directly with eligible or potentially eligible participants**
- 5. Communicating the program's nondiscrimination policy and applicable complaint procedures, as provided in the section "Notifications" below**

NUTRITION PROGRAM COMPLIANCE (continued)

- 6. Providing appropriate translation services when a significant number of persons in the surrounding population have limited English proficiency**
- 7. Ensuring that every part of a facility is accessible to and usable by persons with disabilities and that participants with disabilities are not excluded from the benefits or services due to inaccessibility of facilities**
- 8. Ensuring that special meals are made available to participants with disabilities who have a medical statement on file documenting that their disability restricts their diet**

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

- 9. Implementing procedures to process and resolve civil rights (discrimination) complaints and program-related complaints, including maintaining a complaint log and working with the appropriate person to resolve any complaint**

Note: Districts receiving federal financial assistance are required to request racial/ethnic data of all program applicants and participants for purposes of determining whether the program reaches potential eligible persons, identifying areas where additional outreach is needed, selecting locations for compliance reviews, and completing required reports. According to FNS Instruction 113-1, using the applicant's self-identification or self-reporting is the preferred method of obtaining racial and ethnic data.

- 10. Developing a method, which preferably uses self-identification or self-reporting, to collect racial and ethnic data for potentially eligible populations, applicants, and participants**

(cf. 5022 - Students and Family Privacy Rights)

(cf. 5125 - Student Records)

Notifications

~~The coordinator shall ensure that~~ The U.S. Department of Agriculture's (USDA) "And Justice for All" **civil rights poster** ~~or other approved Nutrition Programs civil rights posters are or a substitute poster approved by the USDA's Food and Nutrition Service shall be~~ displayed in areas visible to the district's nutrition program participants, such as food service areas and school offices.

Note: FNS Instruction 113-1 requires districts to notify nutrition program applicants, participants, and potentially eligible persons of program availability, rights, and responsibilities and to advise them at each service delivery site (e.g., the school) regarding the procedure for filing a complaint. Such notice may be distributed through student and parent/guardian handbooks or other method of parental notifications.

NUTRITION PROGRAM COMPLIANCE (continued)

~~Annually, the coordinator shall notify all students, parents/guardians, and employees of program requirements and the procedures for filing a complaint, through the district's usual means of notification.~~ **The coordinator shall notify the public, all program applicants, participants, and potentially eligible persons of their program rights and responsibilities and steps necessary for participation. Applicants, participants, and the public also shall be advised of their right to file a complaint, how to file a complaint, the complaint procedures, and that a complaint may be file anonymously or by a third party.**

~~(cf. 4112.9/4212.9/4312.9 – Employee Notifications)~~

~~(cf. 5145.6 - Parental Notifications)~~

Note: As part of its instructions to all recipients of federal funds, FNS requires that ~~every program publication~~ **all forms of communication available to the public regarding program availability also** contain information about that recipient's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the recipient. FNS provides specific language for the notification and prohibits its modification in any way. **The FNS requires that all documents, pamphlets, brochures, and other materials be updated to include the 2015 statement when supplies are exhausted, but no later than September 30, 2016.**

In addition, ~~the coordinator shall ensure that every informational release, publication, or poster concerning the district's nutrition programs and/or activities~~ **all forms of communication available to the public regarding program availability includes, shall contain,** in a prominent location, the following statement:

~~"In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs, or disability. In addition, California law prohibits discrimination on any basis identified in Government Code 12940.~~

~~To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer."~~

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

NUTRITION PROGRAM COMPLIANCE (continued)

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;**
- (2) fax: (202) 690-7442; or**
- (3) email: program.intake@usda.gov.**

This institution is an equal opportunity provider."

Forms of communication requiring this nondiscrimination statement include, but are not limited to, web sites, public information releases, publications, and posters, but exclude menus. The nondiscrimination statement need not be included on every page of program information on the district's or school's web site, but the statement or a link to the statement shall be included on the home page of the program information.

However, if the document is no more than one page and there is no room to print the full nondiscrimination statement, the district may instead use the statement **A short version of the nondiscrimination statement, stating "This institution is an equal opportunity provider," may be used on pamphlets, brochures, and flyers in the same print size as the rest of the text.**

Complaints

Any complaint concerning the district's nutrition programs shall be investigated using the process identified in the section entitled "Procedures" in the district's AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

NUTRITION PROGRAM COMPLIANCE (continued)

When a complaint **alleging discrimination of the basis of race, color, national origin, sex, age, or disability** is unresolved at the district level, the coordinator shall notify the complainant of the option to contact and/or forward his/her complaint to one of the following agencies:

1. Child Nutrition Program Civil Rights and Program Complaint Coordinator, California Department of Education, Nutrition Services Division, 1430 N Street, Room **15004503**, Sacramento, CA 95814-2342 or call ~~916-445-0850~~ **(916) 323-8531** or (800) 952-5609
2. ~~Office of Civil Rights, USDA, Western Region, 90 Seventh Street, Suite 10-100, San Francisco, CA 94103 or call 415-705-1336 or fax 415-705-1364 or email Joe.Torres@fns.usda.gov~~
- 3.2. ~~USDA, Director, Office of Civil Rights~~ **U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights**, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, ~~or call 800-795-3272 or 202-720-6382 (TTY)~~ **(866) 632-9992, (800) 877-8339 (Federal Relay Service - English), (800) 845-6136 (Federal Relay Service - Spanish), fax (202) 690-7442, or email program.intake.usda.gov.**

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48985 Notices to parents in language other than English

49060-49079 Student records

49490-49590 Child nutrition programs

PENAL CODE

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities in Education Act

1681-1688 Discrimination based on sex or blindness, Title IX

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

Legal Reference continued: (see next page)

NUTRITION PROGRAM COMPLIANCE (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2000h-6 Title IX

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 7

210.23 National School Lunch Program, district responsibilities

215.7 Special Milk Program, requirements for participation

215.14 Special Milk Program, nondiscrimination

220.7 School Breakfast Program, requirements for participation

225.3 Summer Food Service Program, administration

225.7 Summer Food Service Program, program monitoring

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

36.303 Auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:

106.9 Dissemination of policy

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Civil Rights and Complaint Procedures for **the U.S. Department of Agriculture** Child Nutrition Programs, **March 2010 rev. November 2015**

U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE PUBLICATIONS

Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, **January 1999, August 2010**

WEB SITES

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>

U.S. Department of Agriculture, Food and Nutrition Services: <http://www.fns.usda.gov>

U.S. Department of Agriculture, Office for Civil Rights: <http://www.ascr.usda.gov>

U.S. Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>

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