

WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
Community Nutrition Programs
Child and Adult Care Food Program

**Guidance Memorandum H: For Sponsoring Organizations of the Child and Adult Care Food Program (CACFP)
in Day Care Homes**

Topic: Civil Rights Compliance and Enforcement in the Child and Adult Care Food Program

Date: November 2011

I. Authority

Under federal law, no person in the United States shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient of Federal financial assistance from the U.S. Department of Agriculture (USDA) or any agency thereof.

The pertinent laws and regulations include:

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d to 2000d-6, which prohibits discrimination based on race, color, and national origin in programs and activities receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15, Subpart A and Subpart C.
- B. Americans with Disabilities Act (28 CFR Part 35, Title II, Subtitle A), which prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.
- C. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et. seq.), which prohibits discrimination based on sex under any education program or activity receiving Federal financial assistance; and USDA Implementing Regulation, 7 CFR Part 15 a.
- D. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on disability; and USDA Implementing Regulation, 7 CFR Part 15 b.
- E. Age Discrimination Act of 1975 (45 CFR Part 91), which prohibits discrimination based on age in programs or activities receiving Federal financial assistance.
- F. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and Department of Justice (DOJ) Memorandum dated January 28, 1999, entitled, "Policy Guidance Document -- Enforcement of Title VI of the Civil Rights Act of 1964 and Related Statutes in Block Grant Type Programs."
- G. Civil Rights Restoration Act of 1987, which clarifies the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statutes to ensure nondiscrimination in all programs and activities of a recipient, whether those programs and activities are federally funded or not.
- H. The Food Stamp Act of 1977, as amended.
- I. Enforcement of Title VI of the Civil Rights Act of 1964 -- National Origin Discrimination Against Persons With Limited English Proficiency, 65 F.R. 50123, August 16, 2000. This is the Federal Register cite for Department of Justice guidance for Executive Order 13166, Improving Access To Services For Persons With Limited English Proficiency, signed on August 11, 2000.
- J. USDA Departmental Regulation 4330-2, Activities Receiving USDA Financial Assistance, ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the U.S. Department of Agriculture.
- K. USDA Regulation 7 CFR Part 16, Equal Opportunity for Religious Organizations, implements executive branch policy that, within the framework of constitutional church-State guidelines, religiously affiliated (or

“faith-based”) organizations should be able to compete on an equal footing with other organizations for USDA assistance.

- L. Richard B. Russell National School Lunch Act (NSLA) 42 USC 1751 et seq., Child Nutrition Act of 1966 (42 U.S.C. § 1771 et seq.)
- M. 7 CFR Part 226

II. Sponsor Civil Rights Requirements

- A. Prior to approval for the Child and Adult Care Food Program (CACFP):
 - 1. Indicate what action will be taken to assure that minority populations have an equal opportunity to participate in the CACFP.
 - 2. Describe efforts to contact minority and grass roots organizations about the opportunity to participate. A county-by-county listing of grass roots organizations is available from the Department of Public Instruction (DPI).
 - 3. List all federal agencies which are providing support to your organization.
- B. In a prominent place display the 11” X 17” size nondiscrimination poster “...And Justice for All” provided by DPI.
- C. Provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the CACFP. DPI has Cambodian, Hmong, Laotian, Spanish and Vietnamese translations available upon request.
- D. All providers must inform parents or guardians about the program and its benefits when their children are enrolled in the day care home. This parental notification document must include contact information which provides the name and telephone number of both the sponsoring organization and the State Agency. The “Building for the Future” flier included in this guidance memorandum must serve as the parent notification document. Each agency must distribute sufficient copies of this flier to all their sponsored providers to ensure that all newly enrolling families are given a copy. In addition, the sponsoring organization must monitor their sponsored homes to ensure that the flier is consistently given to newly enrolling families. Repeated intentional failure to distribute this flier to newly enrolling families is grounds for declaring the provider seriously deficient.
- E. Make CACFP information available to the public upon request.
- F. Distribute the required current year News Media Release annually to the local news media outlet. A copy of the News Media Release must be kept on file for three years plus the current year. Include the date the release was sent to the media outlet and which local media received the release.
- G. All information materials and sources, including Web sites, used by local agencies or other sub recipients to inform the public about Food and Nutrition Service (FNS) programs must contain a nondiscrimination statement. It is not required that the nondiscrimination statement be included on every page of the program information Web site. At a minimum, the nondiscrimination statement, or a link to it, must be included on the home page of the program information.

Local agencies, and their sub recipients, must post the following nondiscrimination statement. This statement must be posted in all local agency, or sub recipient offices and be included, in full, on all materials regarding such recipients’ programs that are produced by the recipients for public information, public education, or public distribution. The authorized statements below cannot be modified.

The authorized statements read as follows:

“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, or disability.”

“To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are

hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.”

If the material is too small to permit the full statement to be included, the material will at a minimum include the statement, in print size no smaller than the text, that:

“This institution is an equal opportunity provider.”

In Spanish:

“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. 20250-9410, 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 Relevos (Federal Relay Service) al (800) 845-6136 (español) o (800) 877-8339 (inglés). USDA es un proveedor y empleador que ofrece oportunidad igual para todos.”

H. Data collection:

1. Maintain a file on the potential eligible beneficiaries by race and ethnic categories
 2. Annually, collect actual participation data by racial and ethnicity categories (sample form attached) for each participating day care home. Visual identification may be used to determine racial and ethnicity categories or one may ask the parents to identify the racial and ethnicity categories of their child. For collecting purposes, a child may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging to. Parents may be asked to identify their child's racial and ethnicity groups only after it has been explained, and they understand, that the collection is strictly for statistical reporting and will have no effect on determination of eligibility for benefits.
 3. Race and ethnicity must be documented as two separate categories.
 4. Maintain all records on file for the required three years from the end of the current fiscal year.
 5. The data shall be maintained on file using safeguards that prevent its use for discriminatory purposes. Such safeguards include allowing access to Program records containing this data only to authorized personnel.
- I. Allow all children equal access to the food service without regard for race, color, national origin, sex, age or disability.
- J. Allow all children access to child care services and facilities regardless of race, color, national origin, sex, age or disability.

III. Review

The state agency will review institutions for compliance with the civil rights requirements as a part of their routine review system.

IV. Civil Rights Training

Training will be provided by the state agency at the annual administrative training sessions. Local agencies are then responsible for annually training members of their staff and their providers. (Staff who interact with program applicants or participants, and those persons who supervise them, must be provided civil rights training on an annual basis.) The annual training must be documented, including the names of the attendees and the topics covered. Specific subject matter must include, but not be limited to:

- collection and use of data,
- effective public notification systems,
- complaint procedures,
- requirements for reasonable accommodation of persons with disabilities,

- requirements for language assistance,
- conflict resolution, and
- customer service.

Records indicating the agency staff who received the civil rights training, the civil rights topics covered, and the date(s) that the civil rights training was completed must be retained on file. Refer to website <http://dpi.wi.gov/fns/training.html> to access the *Civil Rights Requirements* Power Point presentation that may be used to complete the required civil rights training with the agency's staff.

V. Complaints

All written or verbal complaints alleging discrimination on the basis of race, color, national origin, sex, age, or disability shall be processed within 90 days of receipt. The Director, Office of Civil Rights (OCR), under the Secretary of Agriculture, is responsible for handling of complaints.

A. Procedure for Filing Complaints of Discrimination

Any person alleging discrimination has a right to file a complaint within 180 days of the alleged discriminatory action. Under special circumstances, this time limit may be extended by the Office of Adjudication. Agencies should give complainants a *Civil Rights Complaint Form* to complete for collecting needed information to process the complaint. (Please contact your assigned consultant to obtain a sample *Civil Rights Complaint Form*.) Agencies are required to develop and implement a written procedure to handle any discrimination complaints that may be received. A *Civil Rights Complaint Log* should be maintained to document all potential complaints. The *Civil Rights Complaint Forms* and *Civil Rights Complaint Log* should be kept in a central location to be accessed by authorized staff

B. Acceptance of Complaints

If someone comes to you, as the sponsor, with a civil rights complaint, written or verbal, you shall accept and forward it to USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). It is necessary that the information be sufficient to determine the identity of the agency or individual toward which the complaint is directed, and to indicate the possibility of a violation. Anonymous complaints should be handled as any other complaint.

C. Verbal Complaints

In the event a complaint is made verbally or through a telephone conversation, and the complainant does not desire to place the allegations in writing, the person to whom the allegations are made shall document the complaint. They should try to obtain the following information:

1. Name, address, and telephone number or means of contacting the complainant.
2. The specific location of the CACFP involved.
3. The nature of the incident that led to the discrimination complaint, or an example of the method of administration which is having a disparate effect on the public, potential participants, or participants.
4. The basis on which the complainant feels discrimination exists (race, color, national origin, sex, age, or disability).
5. The names, titles, and addresses of persons who may have knowledge of the discriminatory action.
6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

D. Investigation

The Office of Civil Rights has the responsibility to determine if an investigation or a preliminary inquiry will be conducted.

E. Closure

The Director of the Office of Civil Rights is responsible for closure of all Title VI complaint files.

VI. Assurance

It is required that assurances of compliance with the Civil Rights Act of 1964 be given by agencies and entities administering the CACFP. It is in the agreement between DPI and sponsoring organizations of the CACFP.

VII. Resolution of Noncompliance

Once probable noncompliance is found, steps shall immediately be taken to obtain voluntary compliance. If corrective action has not been completed within 60 days of the findings, a report shall be sent to OCR for transmittal to the Department of Justice.

Building For the Future

This day care facility participates in the Child and Adult Care Food Program (CACFP), a Federal program that provides healthy meals and snacks to children receiving day care.

Each day more than 2.6 million children participate in CACFP at day care homes and centers across the country. Providers are reimbursed for serving nutritious meals which meet USDA requirements. The program plays a vital role in improving the quality of day care and making it more affordable for low-income families.

Meals CACFP homes and centers follow meal requirements established by USDA.

Breakfast	Lunch or Supper	Snacks (Two of the four groups:)
Milk Fruit or Vegetable Grains or Bread	Milk Meat or meat alternate Grains or bread Two different servings of fruits or vegetables	Milk Meat or meat alternate Grains or bread Fruit or vegetable

Participating

Facilities Many different homes and centers operate CACFP and share the common goal of bringing nutritious meals and snacks to participants. Participating facilities include:

- **Child Care Centers:** Licensed or approved public or private nonprofit child care centers, Head Start programs, and some for-profit centers.
- **Family Day Care Homes:** Licensed or approved private homes.
- **Afterschool Care Programs:** Centers in low-income areas provide free snacks to school-age children and youth.
- **Homeless Shelters:** Emergency shelters provide food services to homeless children.

Eligibility State agencies reimburse facilities that offer non-residential day care to the following children:

- children age 12 and under,
- migrant children age 15 and younger, and
- youths through age 18 in afterschool care programs in needy areas.

Contact

Information If you have questions about the CACFP please contact one of the following:

Amanda Kane, R.D., Director
Community Nutrition Programs
Wisconsin Department of Public Instruction
P.O. Box 7841
Madison, WI. 53707-7841
608-267-9129



USDA is an equal opportunity
Provider and employer

Guidance Memorandum H, revision date 11/11
See the DPI CACFP website at <http://www.dpi.wi.gov/fns/homememos.html> for the most current version

COMPLETE AND RETAIN ON FILE – DO NOT SUBMIT TO DPI

RACIAL or ETHNIC DATA FORM	
Agency Name: _____	
Site Name (if different): _____	
Address: _____	
Ethnic Categories	Number of Participating Children
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.”	
Not Hispanic or Latino	
Racial Categories	
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.	
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.	
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.”	
Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.	
White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.	
_____ _____ _____ _____	_____ Date
Site Supervisor OR Authorized Representative Signature	

See next page for instructions

Instructions for Completing the Racial or Ethnic Data Form

- The agency must complete this form for each site under its sponsorship each year.
- The sponsor may use visual identification to determine a participant's racial or ethnic category or the parents of a participant may be asked to identify the racial or ethnic group of their child(ren). A participant may be included in the group that he/she appears to belong, identifies with, or is regarded as a member by the community.
- To provide flexibility and ensure data quality, separate categories shall be used when collecting and reporting race and ethnicity. Ethnicity shall be collected first. Respondents shall be offered the option of selecting one or more racial designations.
- The sponsor must retain racial or ethnic data for 3 years and must safeguard this information to prevent its use for discriminatory purposes. Access to Program records containing racial or ethnic data should be limited to authorized personnel.

Note: Based on OMB Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, published 10/30/97 and in FNS Instruction 113-1, Civil Rights Compliance and Enforcement Nutrition Programs and Activities, published November 8, 2005.