

CIVIL RIGHTS

Rights and Responsibilities
in the School Nutrition
Programs



CIVIL RIGHTS FOR CHILD NUTRITION PROGRAM SPONSORS

- Local agencies must train sub-recipients and frontline staff annually.
- New employees and volunteers must be trained before participating in program activities.
- All staff should be trained on all aspects of civil rights compliance.
- Staff must understand that filing a complaint is a basic individual right.
- Staff should be able to recognize and properly handle civil rights complaints.



STATE AGENCIES ARE RESPONSIBLE FOR TRAINING LOCAL AGENCIES ON AN ANNUAL BASIS



Specific subject matter required, but not limited to:

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

DEFINITIONS

Civil Rights

“personal liberty” or fair and equitable treatment of all customers and employees by the US Constitution and Acts of Congress.

Discrimination

Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions

GOALS OF CIVIL RIGHTS



To eliminate barriers that prevent or deter people from receiving benefits of a government sponsored/funded program.

To provide equal treatment in the delivery of programs and services to all applicants, participants and beneficiaries of a federal program.

To ensure that all applicants and participants understand their rights and responsibilities.

To show respect and dignity to all.

CIVIL RIGHTS LEGISLATION

- Title VI of the Civil Rights of 1964
- Civil Rights Restoration Act of 1987
- Sections 504 & 508 of the Rehabilitation Act of 1973 & Americans with Disabilities Act (ADA) 1990 and the ADA Amendments Act of 2008
- Title IX of the Education Amendments of 1972
- Age Discrimination Act of 1975



PROTECTED CLASSES



A protected class refers to any person or group of people who have characteristics for which discrimination is prohibited based on law, regulation or an executive order.

Protected classes in the School Nutrition Programs:

- Race
- Color
- National Origin
- Age
- Disability

SCHOOL FOOD AUTHORITY RESPONSIBILITY



Outreach and Education

Reasonable Modifications

Ensuring Equal Access to
the Program

Language Assistance

Collection of Racial and
Ethnic Data

Issue Resolution: Program
matters and Civil Rights

OUTREACH AND EDUCATION

Program Availability

SFA must take specific actions to inform the public of their program rights and responsibilities and the steps necessary for participation.

Complaint Information

applicants and participants must be advised of their right to file a discrimination complaint, how to file a complaint and the complaint procedures.

Nondiscrimination Statement

all informational materials and sources, including Web sites used by sponsors to inform the public about Child Nutrition Programs, must contain the appropriate USDA nondiscrimination statement. (Common finding)

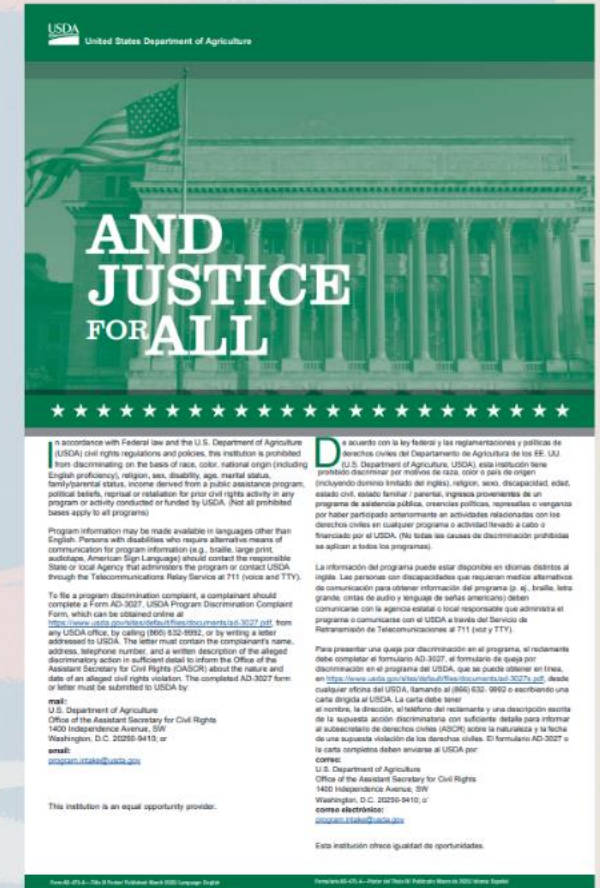
OUTREACH AND EDUCATION

- Nondiscrimination statement must be included on all public materials referencing USDA programs

- And Justice For All Poster: Display in prominent area for all to view

- Posters are available free of charge from NYSED

- Version **AD-475-A**





NONDISCRIMINATION STATEMENT



In accordance with federal civil rights law and USDA civil rights regulations and policies, the USDA, its agencies, offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) 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, Mail Stop 9410, Washington, D.C. 20250-9410;
2. Fax: (202) 690-7442; or
3. Email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

A stylized illustration of a government building dome, likely the California State Capitol, rendered in a light blue color. The dome is set against a background of soft, pink, cloud-like shapes. The entire scene is framed by a light blue border. In the top right corner, there are three small, dark blue, four-pointed stars. In the bottom center, there are three similar stars. The text "PUBLIC NOTIFICATION" is written in a bold, dark blue, sans-serif font across the middle of the image.

PUBLIC NOTIFICATION

EFFECTIVE PUBLIC NOTIFICATION SYSTEMS

All FNS assistance programs must include a public notification system. The purpose of this system is to inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.



METHODS OF PUBLIC NOTIFICATION



And Justice for All Poster

Inform potentially eligible persons of programs

Provide appropriate information

Nondiscrimination statement

Convey message of equal opportunity

BASIC ELEMENTS OF PUBLIC NOTIFICATION



The public notification system must include the following three basic elements:

Program availability

Complaint information

Nondiscrimination
Statement

BASIC ELEMENTS OF PUBLIC NOTIFICATION



Must include information on:

Any programmatic changes (i.e. changing location of a meal site)

Eligibility

Program availability (location of local facilities or service delivery points, hours of service)

Benefits & Services (i.e. free or reduced price school meals and snacks)

Applicant rights and responsibilities

Procedures for filing a complaint

Non-discrimination policies

OTHER THINGS TO CONSIDER

To convey the message of equal opportunity— reflect diversity and inclusion in all program or program-related information, photos and graphics.





RACIAL AND ETHNIC DATA



RACIAL AND ETHNIC DATA



“The State agency must establish a system for collecting and maintaining racial or ethnic participation data. Recording the racial or ethnic identification of applicants and participants may include the utilization of self-identification where a written application is required. Other methods of recording such data may include card files, rosters, logbooks, or any written record used by local agencies or other subrecipients.” (FNS Instruction 113-1, Appendix B)

IMPORTANCE OF DATA COLLECTION



Purpose: To determine how effectively FNS programs are reaching potentially eligible persons and beneficiaries

As a means of monitoring civil rights compliance, state agencies shall establish a system for the collection of racial/ethnic data of each person applying for and receiving benefits.

Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.

RACIAL AND ETHNIC DATA

This data must be kept for three years plus the current year in a secure and confidential manner. Access restricted to only authorized personnel.



RACE AND ETHNIC CATEGORIES

Ethnicity

collected first, only select one

- Hispanic or Latino
- Not Hispanic or Latino

Race

Race (one or more of the following)

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

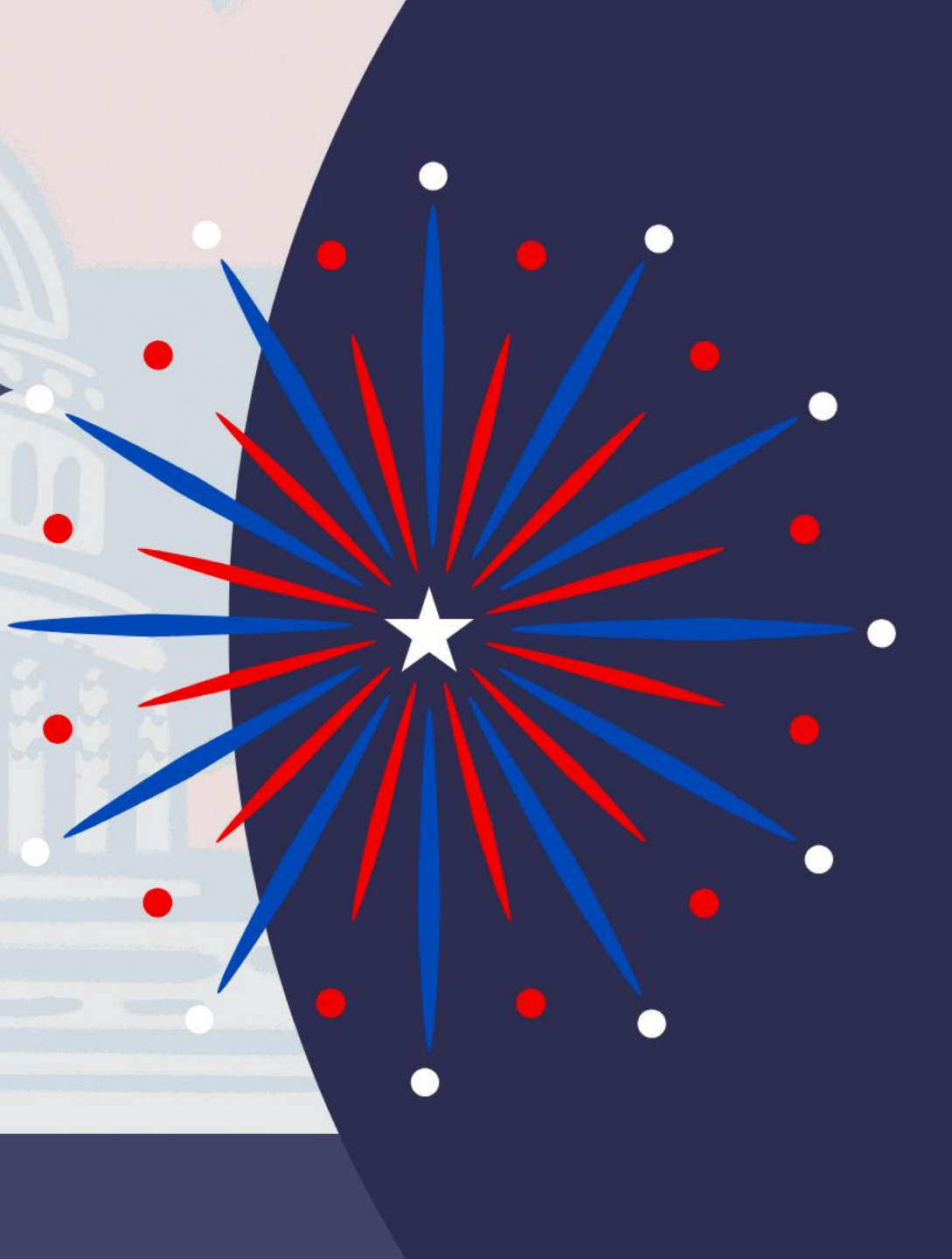


REASONABLE MODIFICATIONS

REASONABLE MODIFICATIONS

Disability

- “ Any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.”



REASONABLE MODIFICATIONS



Food substitutions and modifications must be made for students with disabilities if

- A medical statement is on file from a State licensed healthcare professional or registered dietitian that describes the participant's disability and the State licensed healthcare professional or registered dietitian has indicated the substitutions or modifications that the participant needs.
- Providing appropriate modifications – not ferreting out whether the child has a disability or any possible abuse of the process – is the primary objective

REASONABLE MODIFICATIONS



Consider:

- Three essential components:
- The food to be avoided (allergen)
- Brief explanation of how exposure to the food affects the child
- Recommended substitute(s)*

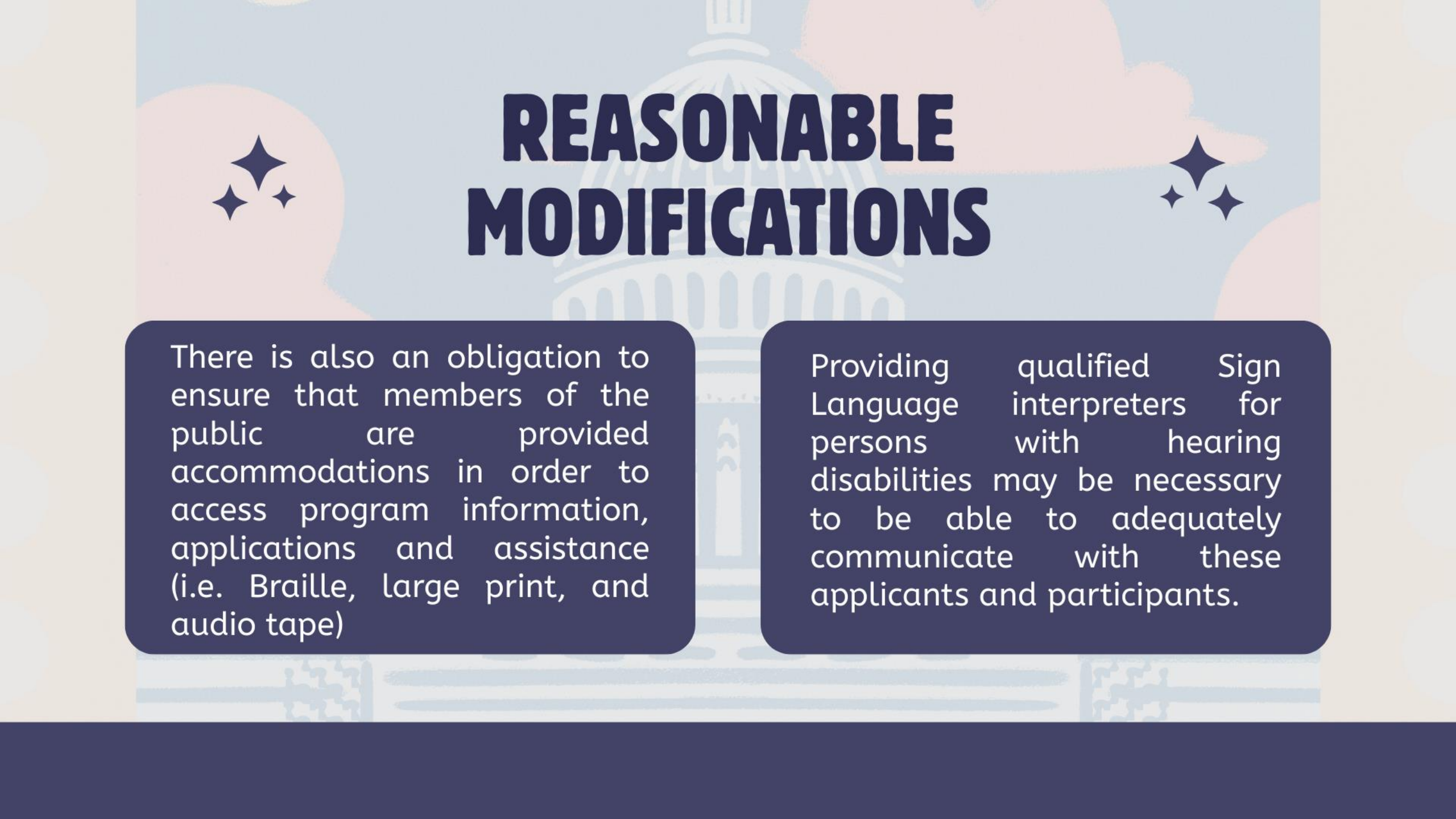
The disability/condition does not need to be "named". Rather only the three areas noted above need to be included in the request. "Describe" could be misconstrued to mean "list" or "identify".

Reference the USDA's "Accommodating Children with Special Dietary Needs in the School Nutrition Programs" for more information. (available on the Child Nutrition Knowledge Center website)



REASONABLE MODIFICATIONS

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- As programs and offices modernize, it is imperative that websites, including State and local agency websites, and online application systems are readily accessible to and useable by persons with visual impairments and other disabilities.
 - In addition, programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
 - At times, different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services are reasonable.



REASONABLE MODIFICATIONS

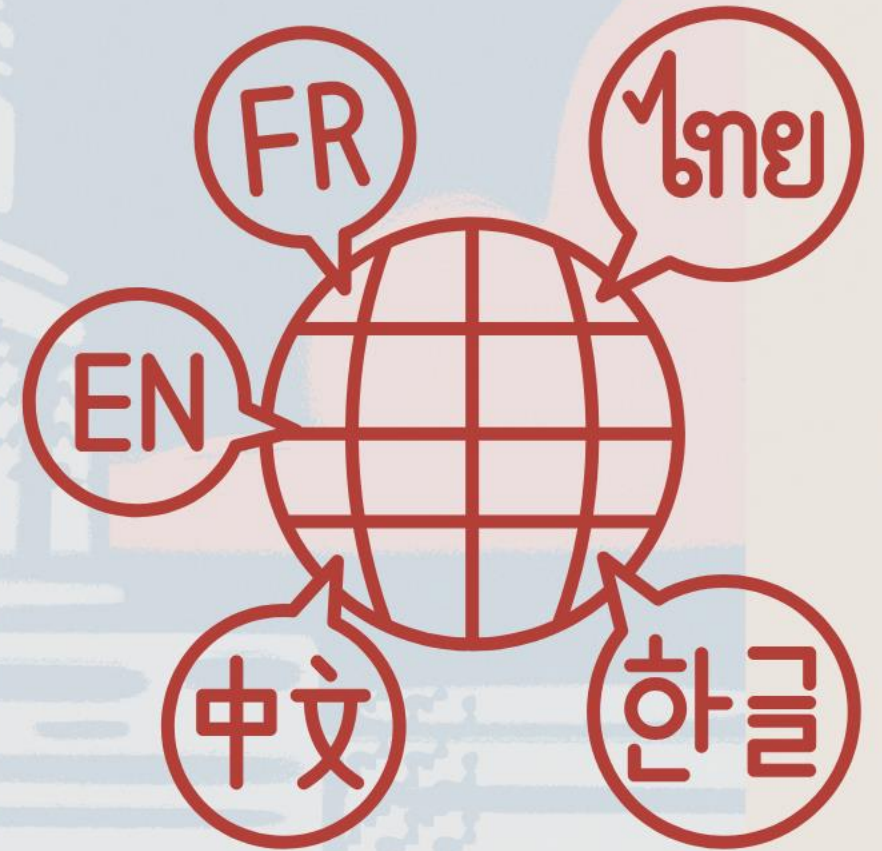
There is also an obligation to ensure that members of the public are provided accommodations in order to access program information, applications and assistance (i.e. Braille, large print, and audio tape)

Providing qualified Sign Language interpreters for persons with hearing disabilities may be necessary to be able to adequately communicate with these applicants and participants.

LANGUAGE ASSISTANCE

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Recipients of Federal financial assistance have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP).



FACTORS TO CONSIDER WITH LEP



Title VI and its regulations require State agencies, local agencies, or other sub recipients to take reasonable steps to assure “meaningful” access to the information and services they provide. (FNS Instruction 113-1, Section VII)

The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient .

Frequency with which LEP individuals come in contact with the program.

Nature and importance of the program, activity, or service provided by the program.

Resources available to the recipient and costs.

DETERMINING “REASONABLE STEPS”



The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient .

- 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/costs

- Accessibility of a translator for applications, etc.
- Availability of materials in various languages

LANGUAGE TRANSLATION FOR PROGRAM MATERIALS



- Make School Meal Programs 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



LANGUAGE INTERPRETERS

Children should not be used as interpreters

Volunteers may be used, but should understand ethics for using interpreters, if competent and qualified in the language

- Example: Spanish teacher could assist a household in completing an application but would need to be trained on the importance of keeping all information received from the household confidential

See www.lep.gov for more information and resources

CONFLICT RESOLUTION

- Resolve at the earliest opportunity
- If third party needed: Food & Nutrition Service
Mediation Program 703-305-2215



CUSTOMER SERVICE

A stylized illustration of a government building dome, likely the Texas State Capitol, rendered in light blue. The dome is set against a background of soft, pink, cloud-like shapes. The entire scene is framed by a light blue border. In the top right corner, there are three dark blue sparkles. In the bottom center, there are three dark blue sparkles. The text "CUSTOMER SERVICE" is written in a bold, dark blue, sans-serif font across the middle of the image.

The background of the slide features a light blue and pink color scheme. At the top, there are four American flags hanging from a string. In the center background, there is a faint, light blue illustration of a building dome, likely the U.S. Capitol. The main title 'CUSTOMER SERVICE' is written in a large, bold, dark blue font.

CUSTOMER SERVICE

All students must be allowed equal opportunities to participate in the School Meal Programs regardless of race, color, national origin, sex, age or disability.

All participants must be treated in the same manner (i.e. seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval and verification processes).

Your goal is to provide fair and equitable treatment to every employee and customer

EQUAL ACCESS TO ALL



You must administer programs so that they are accessible to all participants regardless of race, color, national origin, sex, age, or disability.

COMPLAINT PROCEDURES



All civil rights complaints shall be accepted and forwarded to the Office of the Assistant Secretary for Civil Rights.

The complainant must file complaint within 180 days from act of discrimination.

Complaints may be written, verbal, or anonymous;

State agencies or local agencies may develop their own complaint forms, but the use of such forms cannot be a prerequisite for acceptance of a complaint as the use of a complaint form is not required. **All complaints must be forwarded to USDA FNS.**

FNS must investigate complaints within 180 days.

COMPLAINT PROCEDURES

Be sure to teach your staff on the specific process for a person who asks or presents them with a CR complaint. Your staff needs the guidance on how to actually respond/refer the individual/complaint. We want to ensure prompt processing/referral without any barriers.



CIVIL RIGHTS COMPLAINT PROCESS



Complaints should include:

Name, address, and telephone number or other means of contacting the person alleging discrimination;

The location and name of the organization or office that is accused of the discriminatory practices;

Nature and importance of the program, activity, or service provided by the program.

CIVIL RIGHTS COMPLAINT PROCESS



The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.

The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

The basis for the alleged discrimination (age, race, color, sex, disability, and/or national origin)

CIVIL RIGHTS COMPLIANCE AREAS



- Assurances
- Public Notification
- Racial/Ethnic Data Collection
- Complaints of Discrimination
- Compliance Reviews
- Resolution of Noncompliance
- Civil Rights Training
- Limited English Proficiency
- Disability Access



COMPLIANCE REVIEWS

To examine the activities of State agencies, Local agencies, and Sub-recipients

To determine their adherence with civil rights as well as program requirements.

FNS Civil Rights and Program staff review State agencies.

- FNS staff and State agencies review local agencies.
- Local agencies review their sub recipients.

COMPLIANCE REVIEWS

There are three types of compliance reviews:



Pre-Award
Compliance Reviews

1

Routine (Post-Award)
Compliance Reviews

2

Special Compliance
Reviews

3



PRE-AWARD COMPLIANCE REVIEWS

These reviews are conducted by the State Agency and are usually done as desk reviews of information provided by applicants in their official application to operate a FNS Federally-assisted program.

No Federal funds shall be made available to a State or an institution until a Pre-Award Compliance Review has been conducted and the applicant has been determined to be in compliance with Title VI.

PRE-APPROVAL/PRE-AWARD COMPLIANCE REVIEWS



In accordance with FNS 113-1, FNS & the State agency:

Must determine that all State, local agency, or other sub recipient program applicants are in compliance with Civil Rights (CR) requirements prior to approval for Federal financial assistance;

Pre-approval/pre-award review report must be maintained in the appropriate program files;

Program applicants and recipients must provide relevant and current CR information for any applications for approval of specific projects or significant changes in applications for continuation or renewal of assistance; and

Additional requirements contained in Appendix B

Based on a desk or onsite review of CR information provided by the program applicant

ROUTINE (POST-AWARD) COMPLIANCE REVIEWS

Component of the FNS Management Review process. These reviews may be conducted jointly or independently by the CR staff. The review examines the activities of State and Local agencies, or other sub recipients to determine that FNS programs and activities are being administered with civil rights requirements. The office performing the review must advise the reviewed entity, in writing, of the review findings and recommendations.



ROUTINE (POST-AWARD) COMPLIANCE REVIEWS



Areas of review:

- Eligible persons and households have an equal opportunity to participate;
- Case records should include race or ethnic origin;
- Offices are displaying the “And Justice for All” poster in a prominent location;
- Nondiscrimination statement (NDS); statement to be included in program materials such as application, notices brochures. Ensure websites for all subrecipients contain the full NDS or direct link to the full NDS.
- Availability of program information to eligible persons, program applicants and participants;
- Racial and ethnic data collection, and maintenance for 3 years;
- Complaint processing; and
- Training.

SPECIAL COMPLIANCE REVIEWS



Special Compliance Review may be conducted by the USDA Office of the Assistant Secretary for Civil Rights staff and/or FNS when there are significant Civil Rights concerns which have a direct impact on the delivery of FNS program services and/or benefits, statistical data indicates that a particular minority group is not participating in or benefiting from the Program , reports of noncompliance made by other agencies need to be substantiated or patterns of complaints of discrimination have developed that require follow-up.

RESOLUTION OF NON COMPLIANCE

- Noncompliance: A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other sub recipient.
- Steps must be taken immediately to obtain voluntary compliance.





THANK YOU

Questions?

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