

CIVIL RIGHTS TRAINING

FOR CHILD NUTRITION AND FOOD DISTRIBUTION PROGRAMS



south dakota
DEPARTMENT OF EDUCATION
Learning. Leadership. Service.

Thank you for joining the Civil Rights Training for Child Nutrition and Food Distribution Programs.

The goal of this training is to provide a general overview of the Civil Rights requirements that State and local agencies should know for administering their programs.

This training is based on a presentation by the Civil Rights Division, USDA Food and Nutrition Service in 2021 and more recent instructions and policies.

ABBREVIATIONS

- CACFP- Child and Adult Care Food Program
- CFR = Codified Federal Regulation
- CR = Civil Rights
- DOJ = Department of Justice
- ELL- English Language Learners
- FDP- Food Distribution Program
- FNS = Food and Nutrition Services
- NSLP = National School Lunch Program
- SBP = School Breakfast Program
- SD = South Dakota
- SDCL = SD Codified Law
- SFSP- Summer Food Service Program
- SMP = Special Milk Program
- USDA = United States Department of Agriculture

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These are some common abbreviations that may be used throughout the presentation.

AGENDA

- Discrimination Defined
- Civil Rights (CR) Coverage and Legal Authorities
- Civil Rights Topics
 - Civil Rights Assurances
 - Public Notification Requirements
 - Racial and Ethnic Data Collection
 - Complaints of Discrimination
 - Civil Rights Training
 - Limited English Proficiency (LEP)
 - Disability Compliance
 - Compliance Reviews
 - Resolution of Noncompliance
 - Conflict Resolution and Customer Service Techniques

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These are the areas that will be discussed during today's training.

What is discrimination?



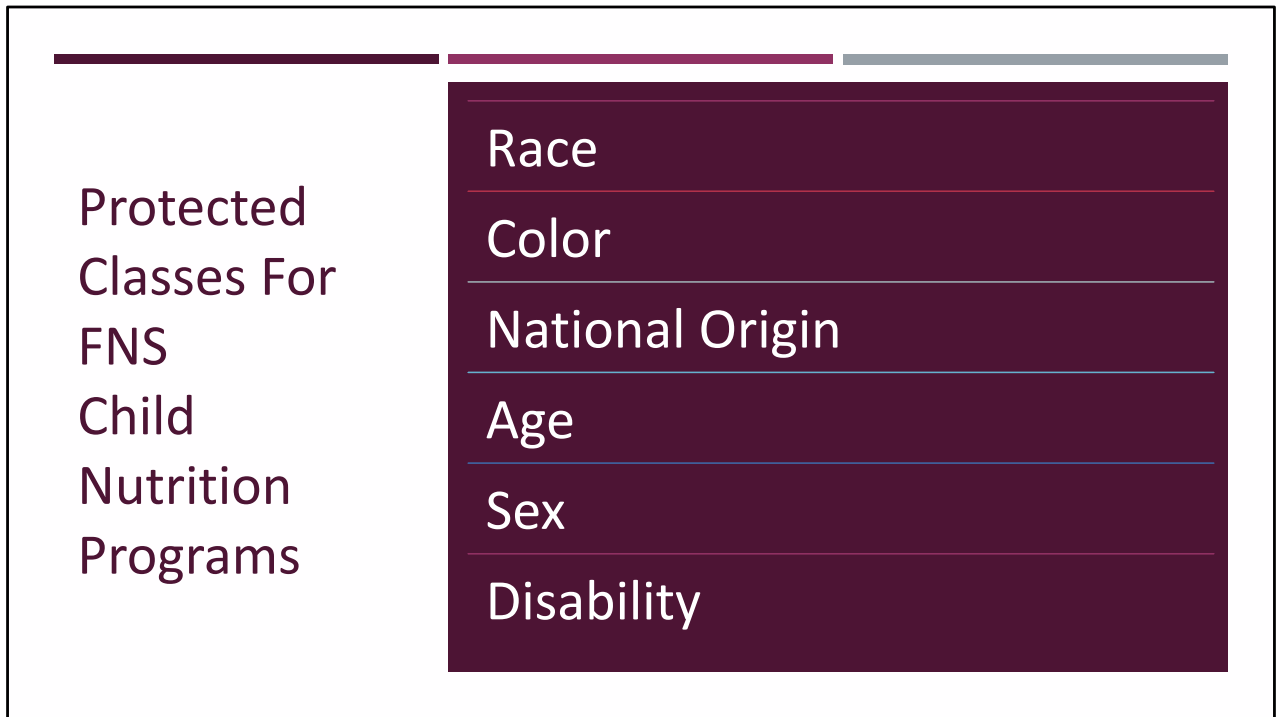
DEFINITION:

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 based on a protected class

What is Discrimination?

DEFINITION:

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 based on a protected class



There are 6 Protected classes for FNS Child Nutrition Programs: Race, Color, National Origin, Age, Sex, and Disability

Compliance and Enforcement

FNS Instruction 113-1

- National School Lunch Program (NSLP) 7 CFR Part 210
- School Breakfast Program (SBP) 7 CFR Part 220
- Special Milk Program (SMP) 7 CFR Part 215
- Summer Food Service Program (SFSP) 7 CFR Part 225
- Child & Adult Care Food Program (CACFP) 7 CFR Part 226
- Commodity Supplemental Food Program (CSFP) 7 CFR Part 247 & 250
- Temporary Emergency Food Assistance Program(TEFAP) 7 CFR Part 250 & 251

Schools and institutions receiving federal funds must follow Civil Rights regulations and policies. These regulations direct sponsors on the proper procedures to follow so that benefits of Child Nutrition Programs are made available to all eligible persons in a non-discriminatory manner.

All sponsors receiving federal money must implement Civil Rights requirements to be eligible for all Child Nutrition Programs.

The Food and Nutrition Service instruction 113-1 is the Federal Regulation governing Civil Rights in the Child Nutrition Programs.

This slide represents Child Nutrition and Food Distribution Programs and their Code of Federal Regulations that fall under the FNS 113-1.

LEGAL AUTHORITIES

Title VI of the Civil Rights Act of 1964	Race, Color, and National Origin
Civil Rights Restoration Act of 1987	Clarifies the scope of the Civil Rights Act of 1964
Section 504 of the Rehabilitation Act of 1973 Americans w/Disabilities Act of 1990 Americans with Disabilities Act Amendments Act of 2008	Disability
Title IX of the Education Amendments of 1972	Sex
Age Discrimination Act of 1975	Age

These are the specific laws that have established the protected classes.

Title VI (Title 6) – Civil Rights Act of 1964 prohibits discrimination based on race, color, and national origin.

The scope of Civil Rights was further clarified in 1987.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability. The American with Disabilities Act of 1990 prohibit discrimination based on disability in all services, programs and activities provided to the public by State and local governments. The Act of 2008 further defined what qualifies as a disability.

Title IX (Title 9) of the Education Amendments Act of 1972 prohibits discrimination based on sex under any education program or activity that is receiving federal financial assistance.

And, finally the Age Discrimination Act of 1975 prohibits discrimination based on age.

ASSURANCES

- To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the program or facility to receive financial assistance will be operated in compliance with all nondiscrimination laws, regulations, instructions, policies, and guidelines.
- A Civil Rights assurance statement must be incorporated in all agreements between
 - Federal and State agencies (Federal-State Agreement)
 - State agencies and local agencies/sponsors
 - Local agencies/sponsors and subrecipients (if applicable)
- Retailer and vendor agreements must include an assurance of nondiscrimination

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Civil Rights must be included in all agreements.

Public Notification

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:

program availability

program rights and responsibilities

the policy of nondiscrimination

the procedure for filing a complaint

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:

- program availability and the steps necessary to participate;
- program rights and responsibilities,
- the policy of nondiscrimination and
- the procedure for filing a complaint.

PUBLIC NOTIFICATION

State agencies, local agencies, sponsors and subrecipients must:

- Make program information available to the public upon request
- Prominently display the “And Justice for All” poster
- Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs
- Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information
- Provide appropriate information in alternate formats for persons with disabilities and in the appropriate language(s) for LEP persons

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Nondiscrimination Statement

At a minimum, the full Nondiscrimination Statement should be on:

Application Form(s)

Notification of Eligibility or Ineligibility

Expiration of Certification Notification

Discontinuance Notification

Program (Home) Web Page

Public Information materials including media

The nondiscrimination statement is a key part of public notification.

At a minimum, the full Nondiscrimination Statement should be on:

- Application Form(s)
- Notification of Eligibility or Ineligibility
- Notice of Adverse Actions including - Expiration of Certification Notification and Discontinuance Notification
- Program (Home) Web Page or a link to it
- and Public Information materials including media

It does not have to be on menus that are sent home.

Use of the CANS DOE prototypes assures that the nondiscrimination statement is on everything it needs to be on. If you are using a computer-developed prototype, be sure the statement is included. Work with the software company to get it updated. If you notice the statement is missing from documents, please contact our office for clarification.

Nondiscrimination Statement



The Nondiscrimination Statement should be used as is. Do not move it into paragraph format.



This institution is an equal opportunity provider (English)
Esta institución es un proveedor que ofrece igualdad de oportunidades (Spanish)



Can be found in 21 Non-English Languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>

The Nondiscrimination Statement should be used as is. Do not move it into paragraph format.

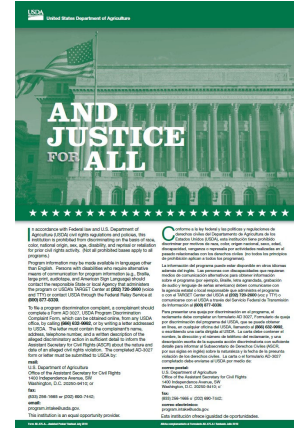
If the material is too small to permit the full statement to be included, the material will at a minimum include the statement, in print size no smaller than the text, that “This institution is an equal opportunity provider.”

The nondiscrimination statement can be found in 21 Non-English Languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>

AND JUSTICE FOR ALL - POSTER

Display the poster in a prominent location for all to view

AD-475A (Green) is the current version



Program participants should be able to see the And Justice for All poster. Please put it in a place where everyone has access to it. AD-457A (green poster pictured) is the most current version. If you need a new poster, please contact our office.

Local reproduction is not authorized.

This document contains the non-discrimination statement and provides program participants the information necessary to file a complaint, if needed.

RACE/ETHNICITY DATA COLLECTION

Purpose:

- To determine how effectively FNS programs are reaching potentially eligible persons and participants
- To identify areas where additional outreach or services are needed
- To assist in the selection of locations for compliance reviews
- To complete reports, as required

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Race and ethnicity data collection is required. This data assists with monitoring Civil Rights compliance and can identify potentially eligible participants who may not have been previously reached by program services.

RACE/ETHNICITY DATA COLLECTION

- Data should be collected and retained for three years
- Participants must be informed that providing information is voluntary and that information provided is only used for Federal civil rights compliance and will not change program eligibility
- Notify the participant that a visual identification of his or her race and ethnicity will be made and recorded in the data system if they decline to self-identify
- Access is restricted to authorized personnel only

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Race and ethnicity data needs to be collected and kept for three years.

Agencies are required to inform participants that data collection is voluntary and information that is provided is only used for Federal civil rights compliance. It does not change program eligibility or their right to participate in services. If an applicant does not consent to the self-identification method, the individual taking the application will, through visual observation, determine the applicant's race or ethnicity and mark the appropriate category.

Please remember that children are not to be surveyed. The purpose of collection is to meet federal regulations and compare your participant data with potentially eligible persons.

RACE AND ETHNIC CATEGORIES

1. Ethnicity

- *Hispanic or Latino*
- *Not Hispanic or Latino*

2. Race (*may select one or more of the following*)

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

Two Question Format

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Racial and Ethnic information should use a two-question format with ethnicity being listed first.

There also needs to be the option of more than one race to be selected.

COMPLAINTS OF DISCRIMINATION

- A Civil Rights complaint is a verbal or written allegation of discrimination resulting in different treatment or services being provided to persons or a group of persons because of a protected class
- All Civil Rights complaints shall be accepted and forwarded to the Office of the Assistant Secretary for Civil Rights
- The person filing a complaint must do so within 180 days of the alleged act of discrimination
- Complaints may be written, verbal or anonymous
- Confidentiality is extremely important and must be maintained

•A Civil Rights complaint is a verbal or written allegation of discrimination that a Food and Nutrition Services program is administered or operated in a manner that results in different treatment or services being provided to persons or groups of persons because of a protected class.

•All civil rights complaints shall be accepted and forwarded to the Office of the Assistant Secretary for Civil Rights. The complainant must file a complaint within 180 days of the alleged 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.

•Confidentiality is extremely important and must be maintained.

COMPLAINTS OF DISCRIMINATION

USDA complaint form

English version: <https://www.ocio.usda.gov/document/ad-3027>

Spanish version: <https://www.ocio.usda.gov/document/ad-3027s>

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There is a USDA Complaint form available for persons to complete.

The Civil Rights Complaint Process



- 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
- The nature of the incident or action that led the person to allege discrimination (race, color, national origin, age, sex, and or disability)

Specific areas of information will need to be shared for the Civil Rights complaint to be filed.

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;

And – The nature of the incident or action or the aspect of program administration that led the person to allege discrimination; which includes information like date of the incident and persons involved.

CIVIL RIGHTS TRAINING

- Local agencies are responsible for training “frontline staff” who interact with participants on an **annual basis**
- New employees before participating in program activities must receive training
- Volunteers must receive training appropriate to their roles and responsibilities

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All staff who work with Child Nutrition Programs must receive training on all aspects of civil rights compliance annually.

New employees should be trained on Civil Rights requirements before participating in Program activities or within the first 30-days of hiring.

Volunteers must receive training appropriate to their roles and responsibilities.

CIVIL RIGHTS TRAINING

All Staff should receive training:

- Collection and use of data
- Effective public notification system
- Complaint procedures
- Compliance review techniques
- Resolution of noncompliance
- Requirements for reasonable modifications for persons with disabilities
- Requirements for language assistance for individuals with limited English proficiency
- Verification of Citizenship and Immigration Status
- Conflict resolution
- Customer service

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Here is a list of the subject matter that the annual Civil Rights Training must address.

Training records need to be kept on file. Training records include the agenda, sign-in of staff who received the civil rights training, and presentation, if applicable.

LIMITED ENGLISH PROFICIENCY (LEP) AND PROGRAM ACCESS

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 because of their national origin

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

Local agencies have a responsibility to ensure persons with LEP have meaningful access to their services.

Failure to provide meaningful access to persons with LEP could result in discrimination on the basis of national origin.

LEP AND PROGRAM ACCESS

What is Meaningful Access?

Providing reasonable, timely, appropriate and competent language services at no cost to individuals with LEP

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Meaningful Access is providing reasonable, timely, appropriate, and competent language services at no cost to individuals with limited English proficiency.

LEP AND PROGRAM ACCESS

Language Services

- Applicants and participants cannot be asked to bring their own interpreters
- Children should **not** be used as interpreters
- Use qualified, competent language resources at no cost to participants

Examples

- Bilingual staff
- Telephone interpreter lines
- Oral interpretation services
- Written language services
- Community organizations and volunteers

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This is what meaningful access looks like at the local level.

- Applicants and participants cannot be asked to bring their own interpreters
- Children should not be used as interpreters
- Use qualified, competent language resources at no cost to participants

- Consider using bilingual staff or interpreter services as needed

LEP POPULATION AND DATA SOURCES

Population data sources:

- Department of Justice <http://www.lep.gov/maps/>
- US Census Data
<https://www.census.gov/en.html>
- American Community Survey
<http://www.census.gov/acs/>
- Migration Policy Institute's National Center on
Immigrant Integration Policy
<http://www.migrationpolicy.org/>

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Community demographics change over time.

Here are a few data sources that can be used to document a need for LEP services and materials. (pause)

DISABILITY DISCRIMINATION

Reasonable Modifications

A public entity shall make reasonable modifications in policies, practices, or procedure when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

[28 CFR 35.130(b)(7)(i)]

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Reasonable modifications are to be made for participants with disabilities.

A public entity shall make reasonable modifications in policies, practices, or procedure when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making modifications would fundamentally alter the nature of the service, program, or activity.

DISABILITY DISCRIMINATION

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.

To constitute a “disability” a condition must substantially limit a major life activity.

A major life activity means functions such as caring for one’s self, performing manual tasks, walking, talking, seeing, hearing, speaking, eating, breathing, learning and working.

Disability is defined as:

- 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.

To constitute a “disability” a condition must substantially limit a major life activity.

A major life activity means functions such as caring for one’s self, performing manual tasks, walking, talking, seeing, hearing, speaking, eating, breathing, learning and working.

The Americans with Disabilities Act impacts National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), Child & Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP) as it expands the definition of “disability”. Major life activities include Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions – per the ADA Amendments Act of 2008. Individuals who take mitigating measures to improve or control any of the conditions recognized as a disability, are still considered to have a disability and require an accommodation.

DISABILITY DISCRIMINATION

- Physical access to services using a wheelchair and Other Mobility Devices
- Access for service animals
- Sign language interpreters or other aids for persons with hearing disability
- Program materials available in formats such as Braille, large print and audio tape
- Website and online applications need to be useable by persons with visual impairments and other disabilities

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What does program access and reasonable accommodation mean for to individuals with disability?

Services shall be provided in the most integrated setting appropriate to the needs of the disabled individual. The school/agency is responsible for assisting students with disabilities where assistance is needed.

DISABILITY DISCRIMINATION

Meal Modification

- Required when a major life activity is impacted
- Signed statement from a medical authority is required when modification deviates from the program meal pattern
 - This may include a doctor, a nurse practitioner, or a physician's assistant
- Modifications for non-disabled participants is permitted, but not required



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Federal regulations that govern diet modifications in child nutrition programs require sponsors to provide modifications to the standard meal for participants who are considered disabled and whose disability restricts their diets.

Each recipient shall serve modified meals, at no extra charge, to participants whose disability restricts their diet.

- Child nutrition programs are required to modify meals when a participant has a major life activity that is impacted.
- A signed statement from a recognized medical authority is required when the modification requires deviation from the meal pattern. This may include a doctor, a nurse practitioner, or a physician's assistant.

Federal regulations permit modifications for other participants who are not disabled – but it is not required.

COMPLIANCE REVIEWS

Civil Rights Compliance Reviews examine the activities of entities who receive federal funding

- FNS Civil Rights and Program staff review State agencies
- State agencies review local agencies
- Local agencies review subrecipients

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Civil Rights Compliance Reviews examine the activities of state and local entities who receive federal funding.

Significant findings must be provided in writing to the reviewed entity and to the USDA Food and Nutrition Service.

COMPLIANCE REVIEWS

Types of compliance reviews

- Pre-Award
- Routine (Post-Award)
- Special



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There are three types of compliance reviews for Civil Rights.

Pre-Awards are conducted by the State Agency as part of an agency's initial application to assure that an institution is in compliance with Title VI (Title 6).

Routine Post-Award reviews are completed on an ongoing basis – and may include questions such as:

- Do printed materials contain the nondiscrimination statement?
- Is the “And Justice For All” poster displayed appropriately?
- Are program informational materials available to all?
- Is data on race and ethnicity collected appropriately?
- How are applicants and participants advised of their rights to file a Civil Rights complaint of discrimination?
- Are reasonable modifications appropriately made for people with disabilities?
- Is everyone at the agency trained in Civil Rights procedures?

Special reviews

- Occur by USDA Office of the Assistant Secretary and/or FNS if there issues that impact the delivery of services of benefits such as reports of Civil Rights noncompliance by an agency, patterns of discrimination complaints, or statistical data that shows underrepresented minority groups in a program based on those who are potentially eligible to benefit.

RESOLUTION OF 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, subrecipient agency, or a local site
- Steps must be taken immediately to obtain *voluntary* compliance
- A finding's effective date is the date of notice to the reviewed entity

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Noncompliance is a factual finding that any civil rights requirement as provided by federal and state law, regulation, policy, instruction, or guideline is not being adhered to.

There are no minor or major categories of noncompliance. No matter the level or severity, noncompliance must be reported.

Some examples of non-compliance include:

- Denying an individual or household the opportunity to apply for program benefits or services
- Providing services in a dissimilar manner
- Selecting program sites or facilities in a manner that denies an individual with access to the program benefits, assistance, or services based on a protected class.

CONFLICT RESOLUTION – CUSTOMER SERVICE

Conflict Resolution

- Take a deep breath and calm down
- Be objective and view the situation in a neutral way
- Be mindful of nonverbal communication
- Avoid personal attacks, insults, or defensiveness
- Show genuine care and concern for the customer

Customer Service

- Use plain language to explain policies and procedures
- Actively listen to customers concerns
- Be proactive to address concerns
- Address the customer by name
- Be polite when asking for documentation

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Conflict Resolution and Customer Service Techniques should be incorporated annually into Civil Rights training for frontline staff.

Issues that arise can often be resolved before it leads to a civil rights complaint.

This concludes the Civil Rights Training.

CONTACT US



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Phone:
605-773-3413

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Feel free to contact us by email or by phone with any questions

Civil Rights Training for Child Nutrition and Food Distribution Programs

This training credits for 30 minutes of training in
Key Area 3 – Administration 3000
3200 Program Management
Professional Standards Training Credit

Print Name:

Date of Training:



This session credits for 30 minutes of training in key area 3 Administration.
This is the certificate of training completion.
Please print, sign and date this slide for your records.

Non-Discrimination Statement

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.

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: [How to File a 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
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

This institution is an equal opportunity provider.

