



# Instruction and Guidance: Civil Rights Compliance

## Montana CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

This Instruction and Guidance document is to assist in understanding civil rights compliance in the CACFP, acts as instructions to fill out the initial and annual civil rights paper work titled, Record of Civil Rights Compliance, and serves as a resource for annual and ongoing civil rights requirements. If you have questions, please contact the Child & Adult Care Food Program at 406-444-4347 or 888-307-9333.

The Child and Adult Care Food Program is a federally funded program and because the CACFP is federally funded, all institution(s) participating must assure CACFP benefits are made available to all eligible individuals without regard to race, color, national origin, sex, age or disability. All institution(s) participating in the CACFP must comply with civil rights requirements, as stated in 7 CFR 226.6(m)(1): Title VI of the Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance; Americans with Disability Act and Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of disability; Title IX of the Education amendments of 1972, prohibiting discrimination on the basis of sex; and the Age Discrimination Act of 1975, prohibiting discrimination on the basis of age.

MT CACFP refers to FNS Instruction, number 113-1, for All FNS Employees and State Agencies, as a resource to guide and enforce Civil Rights Compliance.

MT CACFP refers to state agency policies MT CACFP 1999-6 Rev 2 Civil Rights Compliance and MT CACFP 2000-5 Rev 2 Non-discrimination Statement to guide and enforce Civil Rights Compliance.

### I. Non-Discrimination and Non-Pricing Program Policy Statement

All institutions that participate in the CACFP are non-pricing programs. Non-pricing means that institutions do not charge a separate fee for meals and must assure that there is no discrimination in the course of meal service. Institution(s) assure the state agency of compliance by the agreeing to incorporate the Nondiscrimination and Non-Pricing Policy Statement into its policies and practices. 7CFR 226.23(a) & (b). The Nondiscrimination and Non-Pricing Program Policy Statement is stated below.

#### Non-Discrimination and Non-Pricing Program Policy Statement

The institution assures the Montana Department of Public Health and Human Services/Early Childhood Services Bureau/Child and Adult Care Food Program that all children at the institution(s) are served the same meals at no separate charge regardless of race, color, national origin, sex, age, or disability and there is no discrimination in the course of the meal service. 7CFR 226.23(b).

### II. Data Collection and Maintenance

Institution(s) must collect racial/ethnic data of the area it serves and of beneficiaries (participants receiving CACFP benefits), by racial/ethnic category, initially and annually thereafter. Once collected, the data must be maintained on file at the institution as well as submitted to the state agency. The data must be

maintained using safeguards which prevent its use for discriminatory purposes. Such safeguards include allowing access to CACFP records containing this data to only authorized personnel.

An institution(s) must determine the racial/ethnic data of their service area by the county (counties) or reservation the institution(s) serves. To determine this information, please use racial/ethnic data provided for the State of Montana available on the Federal website 2010 Census. Once the information is determined, enter the data using ethnic/racial categories provided. Racial/ethnic data of beneficiaries is collected by the institution(s) using its own data. Institution(s) must refer to the information provided on the Income Eligibility Forms or rely on other records for this information.

Please use the following guidance when determining actual racial/ethnic data:

1. Visual identification may be used to determine a beneficiary's racial/ethnic category. The parents or guardians of beneficiaries may also be asked to identify the racial/ethnic group of the beneficiaries.
2. For data collection purposes, a beneficiary may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. Parents or guardians of beneficiaries may be asked to identify the racial/ethnic group of the participant only after it has been explained, and they understand that the collection of this information is strictly for statistical reporting requirements, if kept in a confidential manner and has no effect on the determination of the participant's eligibility to receive benefits under the CACFP.
3. The following racial/ethnic categories are used for collecting beneficiary data:

AMERICAN INDIAN OR ALASKAN NATIVE: A person having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition (includes Aleuts and Eskimos).

ASIAN OR PACIFIC ISLANDER: A person having origins in any of the original peoples of the far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Hawaii and Samoa.

BLACK (NOT OF HISPANIC ORIGIN): A person having origins in the black racial groups of Africa.

HISPANIC: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

WHITE (NOT OF HISPANIC ORIGIN): A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

### III. Nondiscrimination in Program Delivery

It is necessary that institution(s) review and assure that program operations are non-discriminatory. This includes but is not limited to the current admission and recruitment policies and procedures, to determine that they do not restrict, deny enrollment, or create a barrier to participation on the basis of race, color, national origin, sex, age, or disability.

Some specific examples of discrimination and non-compliance are as follows:

1. Service or delivery of foods in a place, time or manner that results in or has the effect of denying or limiting the benefits of the CACFP on the basis of race, color, national origin, gender, age, or disability.
2. Failure to apply the same eligibility criteria to all potential eligible individuals seeking participation in the CACFP.
3. Maintenance of a waiting list which makes distinctions on the basis of race, color, national origin, sex, age, or disability.
4. Failure to use or provide material which provides non-English speaking persons full and equal opportunity to receive benefits or services under the CACFP.

It is important that all institutions are familiar with the Americans with Disability Act and that program operations are nondiscriminatory on the basis of disability.

#### SECTION 504 OF THE 1973 REHABILITATION ACT:

Recipients of federal funds shall operate its CACFP or activity so that when viewed in its entirety, is readily accessible to and usable by people with disabilities. Because a recipient's facilities are inaccessible to, or unusable by people with disabilities, they may not be denied the benefits of, or be excluded from participation.

People with disabilities may not, on the basis of disability, be denied admission or be subjected to discrimination in admission, or recruitment into the CACFP.

Institution(s) (including day care homes) may not make the determination of whether a person is disabled, rather the institution shall accept the signed statement from a state recognized medical authority which provides the diagnosis of the disability.

Institution(s) participating in CACFP are required to serve meals to recipients whose disability restricts their diet. Institutions must request and receive a medical certification from a state recognized medical authority indicating dietary needs. This information may be a part of a special needs health care plan that includes feeding, and/or dietary information including dietary restrictions, food modifications, and food substitutions.

Institution(s) may not charge extra for the preparation and serving of such meals.

Institution(s) must review the current admission and recruitment policies to ensure that there are no barriers to participation on the basis of disability.

#### IV. Implementation of the Public Notification System

The purpose of this system is to inform beneficiaries and potential beneficiaries of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint.

All participating institution(s) (these requirements do not apply to day care homes) are required to:

- a. Contact grassroots organizations including those serving minority organizations in the service area to announce participation in and benefits of CACFP. A copy of the announcement must be retained on file and include where the announcement was sent. A grassroots organization is an organization at the local level that interacts directly with potential eligibles or participants, such as an advocacy organization, community action program, civic organization, migrant group, religious organization, neighborhood council or similar group;
- b. Provide the nondiscrimination statement and procedure for filing a complaint to all parents or guardians of beneficiaries and potential beneficiaries. The non-discrimination statement must be placed on all information distributed to parents, guardians and/or the public including parent handbooks, leaflets, brochures, bulletins and newspaper announcements. If the document is too small to accommodate the complete nondiscrimination statement, please use the USDA's short nondiscrimination statement. Please refer to MT CACFP Non-discrimination Statement MT CACFP Policy 2000-5 Rev. 2 for more information.
- c. Display in a prominent place the nondiscrimination poster "*And Justice for All*" developed by the MT CACFP or USDA. *Display The Civil Rights Poster "And Justice for All" near facility's public entrance (day care homes exempt);*
- d. Make CACFP information available to the public upon request. Upon initial visits, parents and/or guardians of beneficiaries and potential beneficiaries must be given specific information pertaining to the receipt of CACFP benefits. Institutions must have the capability of providing informational materials in the appropriate translation (available through the Montana CACFP office or community resources) concerning the availability and nutritional benefits of the CACFP.
  1. Parents and/or guardians of beneficiaries and potential beneficiaries must be informed of the institution(s) participation in the CACFP: activities of the CACFP (referred to as parent notification), the CACFP non-discrimination statement and the complaint procedure. References: 7 CFR 226.6(b)(4)(iv), and MT CACFP Policy 2000-5 Rev. 2, Civil Rights
  2. Parents and/or guardians of beneficiaries and potential beneficiaries must be informed on right to file a complaint, how to file a complaint, and the complaint procedures at the institution (the service delivery point).

MT CACFP recommends that the following is placed in the institution(s) parent handbook and reviewed with parents and/or guardians of beneficiaries and potential beneficiaries.

Meal Service

*[Full business name of child care center] participates in the U. S. Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP.) The Montana CACFP is administered by the State of Montana Department of Public Health and Human Services Early Childhood Services Bureau, PO Box 202925, Helena MT 59620. The MT CACFP can be reached by phone at 1-888-307-9333. By participating in the MT CACFP, our center receives federal financial assistance toward the cost of serving nutritious meals and snacks to the children (or adults) in our care. Meals served meet the nutrition requirements established by the USDA. In accordance with Federal law and the 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 Civil Rights, 1400 Independence Avenue SW, Washington D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.*

e. Please note that the state agency annually issues a media press release in a regional newspaper on behalf of all institutions and will notify institution(s) when ads are placed.

*Sponsoring Organizations of Day Care Homes Only:* Institution(s) which sponsor day care homes are required to provide parents or guardians of beneficiaries, as well as parents of potential beneficiaries seeking enrollment, written CACFP materials which contain the nondiscrimination statement and procedure for filing a complaint.

**V. Civil Rights Training Responsibilities:**

Training is required so that people involved in all levels of administration of programs that receive Federal financial assistance understand civil rights related laws, regulations, procedures, and directives. All staff, including front line workers, such as those who answer phones and provide transportation, must be trained on Civil Rights Compliance. Additional training information is provided by the state agency through annual training.

All institution(s) staff must be annually trained on Civil Rights responsibilities. Institution(s) must use FNS Instruction 113-1, Section XI, and this document for training content. Training content must include:

- The United States Department of Agriculture (USDA) prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, or political beliefs. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington, D.C. 20250-9410.
- Public Notification System
- Collection and use of data
- Effective public notification systems
- Compliance review techniques

- Resolution of noncompliance
- Requirements for reasonable accommodation of persons with disabilities
- Requirements for language assistance
- Conflict resolution
- Customer service

#### Complaint Guidance:

The complaint procedure is for anyone that feels they have been discriminated against including beneficiaries and potential beneficiaries.

Any and all complaints (written, anonymous or verbal) alleging discrimination on the basis of race, color, national origin, sex, age, or disability should be forwarded in writing to:

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).

The Mountain Plains Civil Rights Office has been delegated the authority to determine the manner in which all civil rights complaints are to be handled including agency inquires, compliance reviews, or other means. Regardless of where the complaints are filed, they must reach the above office within 10 days of receipt by the State Agency or Regional Office. Mountain Plains Civil Rights/EEO Office will prepare and issue letters of acknowledgement to complainants.

#### Procedure for Filing Complaints of Discrimination

Right to File a Complaint: Any person alleging discrimination based on race, color, national origin, gender, age, or disability has a right to file a complaint within 180 days of the alleged discriminatory action. Such complaint shall be promptly referred to the Secretary of Agriculture or the Mountain Plains Civil Rights/EEO Office within 5 calendar days of receipt.

Acceptance: All civil rights complaints, written, verbal or anonymous, shall be accepted by the CACFP state agency office, and forwarded to the Mountain Plains Civil Rights/EEO Office. It is necessary that the information be sufficient to determine the identity of the agency or individual towards which the complaint is directed, and to indicate the possibility of a violation. Anonymous complaints should be handled as any other complaints.

VERBAL COMPLAINTS: In the event a complainant makes the allegations verbally or through a telephone conversation and refuses or is not inclined to place such allegations in writing, the person to whom the

allegations are made shall write up the elements of the complaint for the complainant. Every effort should be made to have the complainant provide the following information:

- a. Name, address, and telephone number or other means of contacting the complainant.
- b. The specific location and name of the entity delivering the service or benefit.
- c. The nature of the incident or action that led the complainant to feel discrimination was a factor, or an example of the method of administration which is having a disparate effect on the public, potential participants, or participants.
- d. The basis on which the complainant feels discrimination exists (race, color, national origin, gender, age, disability, or political belief).
- e. The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.
- f. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

#### **VI. Complaint Documentation**

It is essential that institution(s) assure complaints and/or potential complaints are documented. A system must be in place to document complaints and/or potential complaints.