Nutrition Program Complaint Procedure

Adopted: 01/13/2015 **| Last Revised**: 02/20/2024 **| Last Reviewed**: 02/20/2024

Definitions:

Complainant - Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a complaint.

Complaint - A written or verbal statement alleging a violation of a federal or state law or regulation, which may include an allegation of unlawful discrimination.

Complaint Coordinator - A staff member who is responsible for tracking all program complaints until resolution. The complaint coordinator also refers discrimination complaints to the Western Region Office, USDA. The NSD Complaint Coordinator can be reached at 916-445-0850 or toll free at 800-9525609.

Discrimination - The act of making a distinction in favor or against a person intentionally or unintentionally with policies, procedures, attitudes, and practices that denies equal access, or limits services and benefits to those who are eligible.

Discrimination Complaint - A complaint alleging discrimination based on race, color, national origin, sex, age, or disability.

Program Complaint - A complaint alleging violation of federal or state laws or regulations concerning the programs.

This Civil Rights compliance procedure applies to the district in the following programs:

- National School Lunch Program
- School Breakfast Program
- Child and Adult Care Food Program
- Summer Food Service Program
- Food Distribution Program
- State Meal Program

The Board of Education recognizes the district's responsibility to administer these programs in accordance with Civil Rights laws. There are a number of classes that are protected by either the federal or state government. 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 on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. In the state government, the protected classes are ancestry, marital status, medical condition (HIV or cancer), pregnancy, political affiliation, religion, sexual orientation, retaliation, and Vietnam veterans.

Civil Rights complaints for these protected classes are handled by the school district for public schools and are referred to the State for all other agencies. Public schools must follow Title 5 of the California Code of

Regulations, sections 4600 through 4671 to resolve Civil Rights complaints. See the district rule 1312 for information on where to file a complaint.

What is considered discriminatory behavior?

Any behavior that is based on one of the protected classes is discriminatory and prohibited. The following are examples of discriminatory behavior:

- Denying an individual any service, financial aid, or other benefit provided under the program;
- Providing any service, financial aid, or other benefit, to an individual that is different, or is provided in a different manner from that provided to others under the program;
- Subjecting an individual to segregation or separate treatment in any matter related to his or her receipt of any service, financial aid, or other benefit under the program;
- Restricting an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
- Treating an individual differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligible status, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other program benefit;
- Denying an individual an opportunity to participate in a program through the provisions of services or otherwise affording him or her an opportunity to participate that is different from services afforded others under the program;
- Denying a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

All child nutrition program sponsors are required to appoint a complaint coordinator who will establish complaint procedures that comply with Title 5 CCR. Each year, sponsors must make these procedures available to parents and guardians. The complaint coordinator is responsible for responding to complaints.

The Uniform Complaint Procedure (UCP) requires child nutrition program sponsors to attempt resolution of all complaints submitted to them. Complaints may be filed directly with the California Department of Education (CDE), Nutrition Services Division (NSD). However, the NSD does not have jurisdiction over complaints that do not involve a violation of state or federal laws or regulations and will refer these back to the sponsor.

How does a Program Complaint Differ from a Civil Rights Complaint?

Civil Rights complaints allege discrimination on one of the protected classes. A program complaint is defined as a written or verbal statement alleging a violation of a federal or state law or regulation. Program complaints may include an allegation of unlawful discrimination. Refer to the previous section for information and rule 1312 on how to process Civil Rights complaints. In the case of verbal complaints, the person receiving the information from the complainant is responsible for obtaining all pertinent information and developing the written complaint.

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization, may file a complaint. The person(s) filing the complaint is known as the complainant(s). Anonymous complaints are also acceptable as long as sufficient information is provided to proceed with an investigation.

The district has the primary responsibility to insure compliance with applicable state and federal laws and regulations. The district compliance officer must investigate and seek resolution of complaints in accordance with the procedures set out in Title 5 CCR sections 4600 through 4631(d). Following are the procedures specific to the resolution of a complaint:

The district compliance officer shall annually notify, in writing, their students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, and other interested parties of their complaint procedures, as applicable. The annual notification must include appeal rights to the CDE and a copy of Title 5 CCR sections 4600 through 4671. The notice must include the identity (identities) of the person(s) responsible for processing complaints. The notice shall also advise the recipient of the notice of any civil law remedies that may be available. This notice shall be in English, and when necessary in the primary language, pursuant to Section 48985 of the California Education Code, or mode of communication of the recipient of the notice.

For other than discrimination complaints, any individual, public agency, or organization may file a written complaint with the district compliance officer, superintendent, or designee alleging a matter which, if true, constitutes a violation by the district of federal or state laws or regulations governing child nutrition programs.

Within 60 days from receipt of the complaint, the district compliance officer, superintendent, or designee shall complete the investigation of the complaint in accordance with the local procedures developed pursuant to Section 4621 and prepare a written agency decision. This time period may be extended by written agreement of the complainant.

The investigation shall provide an opportunity for the complainant, or the complainant’s representative, or both, and the district representative to present information relevant to the complaint. The investigation may include an opportunity for the parties to the dispute to meet to discuss the complaint or to question each other or each other’s witnesses.

The district decision shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the agency. The agency decision shall contain the findings and disposition of the complaint, including corrective actions if any, the rationale for such disposition, notice of the complainant’s right to appeal the agency decision to the CDE, and the procedures to be followed for initiating an appeal.

The district may establish procedures for attempting to resolve complaints through mediation prior to the initiation of a formal investigation. Conducting local mediation shall not extend the local timelines for investigating and resolving complaints at the local level unless the complainant agrees, in writing, to the extension of the timeline. In no event shall mediation be mandatory in resolving complaints.

The compliance officer should collect the following information:

- Name, address, and telephone number or other means of contacting the complainant;
- Specific location and name of the entity delivering benefits;
- Nature of the complaint or action that led to the charges being filed.

If the nature of the complaint appears discriminatory, the following information should be collected:

- Basis on which the complainant feels that discrimination occurred. In order to be considered a discrimination complaint, the complainant must feel discriminated against based on one or more of the protected classes;

- Names, titles, and, if known, addresses of persons who may have knowledge of the discriminatory action or situation;

- Date(s) that the alleged discrimination occurred, or the duration of such action.

The complaint coordinator is required to maintain a complaint log (see Appendix) and work with the appropriate people to close the complaint. The complaint log must contain all pertinent complaint information, while organizing and facilitating complaint-tracking functions.

All program complaints filed with the NSD will be resolved at the state level. The NSD complaint coordinator will log your complaint, refer it to the appropriate field services representative, and track it through resolution. The NSD reserves the right to conduct unannounced site visits to determine the validity of the allegations.

Where to file a complaint:
To file a complaint of discrimination on the basis of race, color, national origin, sex, age, or disability, write: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call 800-795-3272 or 202-720-6382 (TYY).

In lieu of submitting discrimination complaints to the Office of Civil Rights in Washington, D.C., complaints may be submitted to: Office of Civil Rights, USDA, Western Region, 90 Seventh Street, Suite 10-100, San Francisco, CA 94103 or call 415705-1336 or fax 415-705-1364 or email Joe.Torres@fns.usda.gov

Refer complaints alleging discrimination on the basis of any of the classes protected under state law or all discrimination issues in the State Meal Program to: Child Nutrition Program Civil Rights and Program Complaint Coordinator, California Department of Education, Nutrition Services Division, 1430 N Street, Room 1500, Sacramento, CA 95814-2342 or call 916-445-0850 or 800-952-5609.

Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Legal References:

STATE
CALIFORNIA CODE OF REGULATIONS
5 CCR 15580-15584 Child nutrition programs complaint procedures
5 CCR 3080 Applicability of uniform complaint procedures to complaints regarding students with disabilities
5 CCR 4600-4670 Uniform complaint procedures
5 CCR 4900-4965 Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
EDUCATION CODE
200-280 Prohibition of discrimination
Ed. Code 42238.01 Definitions for purposes of funding

Ed. Code 48985 Notices to parents/guardians in language other than English
Ed. Code 49060-49079 Student records
Ed. Code 49490-49590 Child nutrition programs
PENAL CODE
422.6 Crimes; harassment

FEDERAL

UNITED STATES CODE
20 USC 1400-1482 Individuals with Disabilities Education Act
20 USC 1681-1688 Title IX of the Education Amendments of 1972; discrimination based on sex
29 USC 794 Rehabilitation Act of 1973; Section 504
42 USC 12101-12213 Americans with Disabilities Act
42 USC 2000d-2000d-7 Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended
CODE OF FEDERAL REGULATIONS
28 CFR 35.101-35.190 Americans with Disabilities Act
28 CFR 36.303 Nondiscrimination on the basis of disability; public accommodations, auxiliary aids, and services
34 CFR 100.1-100.13 Nondiscrimination in federal programs; effectuating Title VI
34 CFR 104.1-104.39 Section 504 of the Rehabilitation Act of 1973
34 CFR 106.1-106.61 Discrimination on the basis of sex; effectuating Title IX
34 CFR 106.9 Severability
7 CFR 210.19 National School Lunch Program; additional responsibilities
7 CFR 210.23 National School Lunch Program; district responsibilities
7 CFR 215.14 Special Milk Program; nondiscrimination
7 CFR 215.7 Special Milk Program; requirements for participation
7 CFR 220.13 School Breakfast Program; special responsibilities of state agencies
7 CFR 220.7 School Breakfast Program; requirements for participation
7 CFR 225.11 Summer Food Service Program; corrective action procedures
7 CFR 225.3 Summer Food Service Program; administration
7 CFR 225.7 Summer Food Service Program; program monitoring
7 CFR 226.6 Child and Adult Care Food Program; state agency administrative responsibilities
7 CFR 250.15 Out-of-condition donated foods, food recalls, and complaints

MANAGEMENT RESOURCES

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATION
Civil Rights and Complaint Procedures, U.S. Department of Agriculture Child Nutrition Programs, June 2018
U. S. DEPARTMENT OF AGRICULTURE PUBLICATIONS
USDA Nondiscrimination Statement, December 2022
Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update, CRD 01-2022, May 2022
Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, Nov. 2005
U.S. DOE OFFICE FOR CIVIL RIGHTS PUBLICATION
Notice of Non-Discrimination, August 2010
WEBSITES
U. S. Department of Agriculture, And Justice for All Posters https://ipa.osu.edu/about-us/usda-and-justice-all-poster
CSBA District and County Office of Education Legal Services https://legalservices.csba.org/
U.S. Department of Agriculture, Office for Civil Rights http://www.ascr.usda.gov/
U.S. Department of Agriculture, Food and Nutrition Service http://www.fns.usda.gov/
California Department of Education, School Nutrition https://www.cde.ca.gov/ls/nu/sn/
U.S. Department of Education, Office for Civil Rights http://www2.ed.gov/ocr

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Appendix – Rule 3555

Lodi Unified School District
1305 E. Vine Street, Lodi, CA 95240

Associate Superintendent, Chief Business Officer
(209) 331-7121

USDA Child Nutrition Programs - Log of Civil Rights Complaints

Year: _____

Date Complaint Received	Description of Complaint (verbal or written)	Name of Complainant (Optional)	Date Civil Rights Complaint Form Completed and Returned to Sponsor (yes/no)	Date Civil Rights Compliant Forwarded to CDE

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov

Individuals who are deaf, hard of hearing 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.

District's Civil Rights Coordinator: _____ Coordinator Contact Information: _____