

**Business and Non-Instructional Operations**

**Nutrition Program Complaint Procedure**

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 the federal child nutrition programs, the protected classes are race, color, national origin, sex, age, or disability. Civil Rights complaints for these protected classes are filed with the federal government. 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 (TTY).

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 415-705-1336 or fax 415-705-1364 or email [Joe.Torres@fns.usda.gov](mailto: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.

## COMPLAINT TERMINOLOGY

<b>Complainant</b>	Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a complaint.
<b>Complaint</b>	A written or verbal statement alleging a violation of a federal or state law or regulation, which may include an allegation of unlawful discrimination.
<b>Complaint Coordinator</b>	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 800-952-5609.
<b>Discrimination</b>	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.
<b>Discrimination Complaint</b>	A complaint alleging discrimination based on race, color, national origin, sex, age, or disability.
<b>Program Complaint</b>	A complaint alleging violation of federal or state laws or regulations concerning the programs.

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](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](mailto: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: \_\_\_\_\_