

# MODESTO CITY SCHOOLS

## Board Policy

BP 3555

### BUSINESS AND NONINSTRUCTIONAL OPERATIONS

#### Nutrition Program Compliance

The Governing Board recognizes the district's responsibility to comply with state and federal nondiscrimination laws as they apply to the district's nutrition programs. The district shall not deny any individual the benefits or service of any nutrition program or discriminate against him/her on any basis prohibited by law.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 3550 - Food Service/Child Nutrition Program)*

*(cf. 3552 - Summer Meal Program)*

*(cf. 3553 - Free and Reduced Price Meals)*

*(cf. 5030 - Student Wellness)*

#### **Compliance** Coordinator

The Board **shall designate a compliance coordinator for nutrition programs, who may also be** ~~designates~~ the compliance officer(s) specified in AR 1312.3 - Uniform Complaint Procedures, ~~to as the district's civil rights coordinator to~~ ensure compliance with the laws governing the district's ~~its~~ nutrition programs. ~~and to investigate any related complaints.~~

The responsibilities of the compliance **officer**/coordinator include, but are not limited to:

1. Providing the name of the **compliance** ~~civil rights~~ coordinator, **and the** Section 504 coordinator, and Title IX coordinator, if different from the **compliance** ~~civil rights~~ coordinator, to the California Department of Education and other interested parties

*(cf. 6164.6 - Identification and Education Under Section 504)*

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2. Annually providing mandatory civil rights training to all frontline staff who interact with program applicants or participants and to those who supervise frontline staff

The subject matter of such training shall include, but not be limited to, collection and use of data, effective public notification systems, complaint procedures, compliance review techniques, resolution of noncompliance, requirements for reasonable accommodation of persons with disabilities, requirements for language assistance, conflict resolution, and customer service.

3. Establishing admission and enrollment procedures that do not restrict enrollment of students on the basis of race, ethnicity, national origin, or disability, including preventing staff from incorrectly denying applications and ensuring that such persons have equal access to all programs

*(cf. 6159 - Individualized Education Program)*

4. Sending a public release announcing the availability of the child nutrition programs and/or changes in the programs to public media and to community and grassroots organizations that interact directly with eligible or potentially eligible participants
5. Communicating the program's nondiscrimination policy and applicable complaint procedures, as provided in the section "Notifications" below
6. Providing appropriate translation services when a significant number of persons in the surrounding population have limited English proficiency
7. Ensuring that every part of a facility is accessible to and usable by persons with disabilities and that participants with disabilities are not excluded from the benefits or services due to inaccessibility of facilities

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8. Ensuring that special meals are made available to participants with disabilities who have a medical statement on file documenting that their disability restricts their diet

*(cf. 5141.27 - Food Allergies/Special Dietary Needs)*

9. Implementing procedures to process and resolve civil rights (discrimination) complaints and program-related complaints, including maintaining a complaint log, working with the appropriate person to resolve any complaint, **and referring the complainant to the appropriate state or federal agency when necessary**
10. Developing a method, which preferably uses self-identification or self-reporting, to collect racial and ethnic data for potentially eligible populations, applicants, and participants

*(cf. 5022 - Students and Family Privacy Rights)*

*(cf. 5125 - Student Records)*

***(cf. 5145.13 - Response to Immigration Enforcement)***

**Notifications**

**The compliance coordinator shall ensure that the ~~The~~** U.S. Department of Agriculture's (USDA) "And Justice for All" civil rights poster or a substitute poster approved by the USDA's Food and Nutrition Service **is ~~shall be~~** displayed in areas visible to the district's nutrition program participants, such as food service areas and school offices.

The **compliance** coordinator shall notify the public, all program applicants, participants, and potentially eligible persons of their **program** rights and responsibilities and steps necessary **to participate in the nutrition** programs for participation. Applicants, participants, and the public also shall be advised of their right to file a complaint, how to file a complaint, the complaint procedures, and that a complaint may be file anonymously or by a third party.

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In addition, **the compliance coordinator shall ensure that** all forms of communication available to the public regarding program availability shall contain, in a prominent location, **a statement provided by USDA about the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the district. the following 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: [http:// www.asec.usda.gov/complaint\\_filing\\_cust.html](http://www.asec.usda.gov/complaint_filing_cust.html), 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;

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Forms of communication requiring this nondiscrimination statement include, but are not limited to, web sites, public information releases, publications, and posters, but exclude **items such as cups, buttons, magnets, and pens that identify the program when the size or configuration makes it impractical.** The nondiscrimination statement need not be included on every page of program information on the district's or school's

web site, but the statement or a link to the statement shall be included on the home page of the program information.

A short version of the nondiscrimination statement, **as provided by USDA, stating "This institution is an equal opportunity provider,"** may be used on pamphlets, brochures, and flyers in the same print size as the rest of the text.

**Complaints of Discrimination**

**A complaint alleging discrimination in the district's nutrition program(s) on the basis of race, color, national origin, sex, age, or disability shall, within 180 days of the alleged discriminatory act, be filed or referred to USDA at: (5 CCR 15582)**

**U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400**

**Independence Avenue, SW, Washington, D.C. 20250-9410, (866) 632-9992, (800) 877-8339**

**(Federal Relay Service - English, deaf, hard of hearing, or speech disabilities), (800) 845-**

**6136 (Federal Relay Service - Spanish), fax (202) 690-7442, or email [program.intake.usda.gov](mailto:program.intake.usda.gov)**

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**Complaints of discrimination on any other basis shall be investigated by the district** using the process identified in AR 1312.3 - Uniform Complaint Procedures.

*(cf. 1312.3 - Uniform Complaint Procedures)*

**Complaints Regarding Noncompliance with Any complaint alleging that the district has not complied with program requirements pertaining to meal counting and claiming, reimbursable meals, eligibility of a child or adult, use of cafeteria funds and allowable expenses shall be filed with or referred to CDE. (Education Code 49556; 5 CCR 15584)**

**Complaints of noncompliance with any other nutrition program requirements shall be submitted to and investigated by the district using the following procedures.**

**Complaints may be filed by a student or the student's parent/guardian by phone, email, or letter. The complaint shall be submitted within one year from the date of the alleged violation and shall include the following: (5 CCR 15581)**

- 1. A statement that the district has violated a law or regulation relating to its child nutrition program**
- 2. The facts on which the statement is based**
- 3. The name of the district or the school against which the allegations are made**
- 4. The complainant's contact information**
- 5. The name of the student if alleging violations regarding a specific student**

**The district shall investigate and prepare a written report pursuant to 5 CCR 4631. (5 CCR 15583)**

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BUSINESS AND NONINSTRUCTIONAL OPERATIONSNutrition Program Compliance→ **OPTION 1:**

Unless extended by written agreement with the complainant, the district's compliance coordinator shall investigate the complaint and prepare a written report to be sent to the complainant within 60 days of the district's receipt of the complaint. (5 CCR 15583; 5 CCR 4631)

→ **OPTION 2:**

~~Unless extended by written agreement with the complainant, the district's compliance coordinator shall investigate the complaint and prepare a written report to be sent to the complainant within 30 calendar days of the district's receipt of the complaint. If the complainant is dissatisfied with the compliance coordinator's decision, the complainant may, within five business days, file the complaint in writing with the Board.~~

The Board shall consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered pursuant to 5 CCR 4631. When required by law, the matter shall be considered in closed session. The Board may decide not to consider the complaint, in which case the coordinator's decision shall be final.

(cf. 9321 - Closed Session)

If the Board considers the complaint, the Board's decision shall be sent to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

If the complainant is not satisfied with the findings in the district's report, the complainant may appeal the decision to CDE by filing a written appeal within 30 days of receiving the decision. (5 CCR 4632)

~~When a complaint alleging discrimination of the basis of race, color, national origin, sex, age, or disability is unresolved at the district level,~~

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~~the coordinator shall notify the complainant of the option to contact and/or forward his/her complaint to one of the following agencies:~~

- ~~1. **Child Nutrition Program Civil Rights and Program Complaint Coordinator, California Department of Education, Nutrition Services Division, 1430 N Street, Room 4503, Sacramento, CA 95814-2342 or call (916) 323-8531 or (800) 952-5609**~~
- ~~2. **U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, (866) 632-9992, (800) 877-8339 (Federal Relay Service-English), (800) 845-6136 (Federal Relay Service-Spanish), fax (202) 690-7442, or email [program.intake.usda.gov](mailto:program.intake.usda.gov).**~~

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination

**42238.01 Definitions for purposes of funding**

48985 Notices to parents in language other than English

49060-49079 Student records

49490-49590 Child nutrition programs

**PENAL CODE**

422.6 Interference with constitutional right or privilege

**CODE OF REGULATIONS, TITLE 5**

3080 Application of section

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

**15580-15584 Child nutrition programs complaint procedures**

**UNITED STATES CODE, TITLE 20**

1400-1482 Individuals with Disabilities in Education Act

1681-1688 Discrimination based on sex or blindness, Title IX

**UNITED STATES CODE, TITLE 29**

794 Section 504 of the Rehabilitation Act of 1973



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***UNITED STATES CODE, TITLE 42***

*2000d-2000d-7 Title VI, Civil Rights Act of 1964*

*2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended*

*2000h-2000h-6 Title IX*

*12101-12213 Americans with Disabilities Act*

***CODE OF FEDERAL REGULATIONS, TITLE 7***

**210.19 National School Lunch Program, additional responsibilities**

*210.23 National School Lunch Program, district responsibilities*

*215.7 Special Milk Program, requirements for participation*

*215.14 Special Milk Program, nondiscrimination*

*220.7 School Breakfast Program, requirements for participation*

**220.13 School Breakfast Program, special responsibilities of state agencies**

*225.3 Summer Food Service Program, administration*

*225.7 Summer Food Service Program, program  
monitoring*

**225.11 Summer Food Service Program, corrective action procedures**

**226.6 Child and Adult Care Food Program, state agency administrative responsibilities**

**250.15 Out-of-condition donated foods, food recalls, and complaints**

***CODE OF FEDERAL REGULATIONS, TITLE 28***

*35.101-35.190 Americans with Disabilities Act*

*36.303 Nondiscrimination on the basis of disability, public accommodations, auxiliary  
aids*

*and services*

***CODE OF FEDERAL REGULATIONS, TITLE 34***

*100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI*

*104.1-104.39 Section 504 of the Rehabilitation Act of 1973*

*106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:*

*106.9 Dissemination of policy **Management***

***Resources:***

***CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS***

*Civil Rights and Complaint Procedures for the U.S. Department of Agriculture Child Nutrition  
Programs, **June 2018 rev. November 2015***

***U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE  
PUBLICATIONS***

*Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction  
1131, November 2005*

***U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS***

*Notice of Non-Discrimination, August 2010*

***WEB SITES***

*California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>*

*U.S. Department of Agriculture, Food and Nutrition Services: <http://www.fns.usda.gov>*

*U.S. Department of Agriculture, Office for Civil Rights: <http://www.ascr.usda.gov> U.S.*

*Department of Education, Office for Civil Rights: <http://www2.ed.gov/ocr>*

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**ADOPTED: September 9, 2019**