



# **Massachusetts Department of Elementary and Secondary Education**

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Commissioner

## **MEMORANDUM**

**To:** Local Education Agencies and Sponsoring Organizations of Child Nutrition Programs  
**From:** Robert M. Leshin, Director, Office for Food and Nutrition Programs  
**Date:** June 28, 2022  
**Subject:** Use of the Nondiscrimination Statement on Public Communications

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All local educational agencies (LEAs) and Sponsoring Organizations (SOs) that participate in the federally funded Child Nutrition Programs (CNPs) must post the following nondiscrimination statement and include it, in full, on all materials regarding CNPs that are produced for public information, public education, or public distribution. The authorized statements attached in Appendix A cannot be modified. If a local agency authorizes additional language, it must be included in a separate statement. The Statement should be provided in both English and Spanish when the target audience contains Spanish speakers.

### **The purpose of the statement:**

This statement informs anyone who comes into contact with CNPs that USDA agencies, offices, employees, and institutions who participate in USDA programs are prohibited from discriminating based on race, color, national origin, sex (including gender identity and sexual orientation), disability, or age. Included is the process to file a program complaint of discrimination if one were to occur.

### **Recent update:**

Discrimination on the basis of sex in programs or activities receiving Federal financial assistance includes discrimination on the basis of sexual orientation and discrimination on the basis of gender identity. This policy update is consistent with the Supreme Court's decision in *Bostock v. Clayton County*, 140 S. Ct. 1731, 590 U.S. (2020), and applies to prohibitions against discrimination based on sex in all FNS programs.

### **And Justice for All Posters:**

Currently, updated And Justice for All posters are in production and will be available in the coming months. SFAs and SOs must continue to display the applicable

version of the poster dated September 2019, until updated And Justice for All posters are ordered and received. Guidance on poster ordering and display is forthcoming.

**Action Required:**

**Review your documents, websites, and public communications annually to ensure they contain the most current authorized version of the nondiscrimination statement. The most current version is in Attachment A of this document.**

Note: If you have a significant volume of materials that contain the previous version of the NDS you can continue to use these. Ensure that future versions of these materials are updated with the most recent version of the NDS.

***Where should the NDS be used?***

**Vital Documents:** The nondiscrimination statement should be included in full on all documents that are considered vital to program access and participation. SFAs operating the National School Lunch Program, School Breakfast Program and Special Milk Program should include the nondiscrimination statement with the following communications:

- Household Application Packet, which is sent to all households at the beginning of the school year, and any time a new student registers with the district.
- Letters of approval, denial, or termination of meal benefits
- Letters regarding prepayment/outstanding balances of school meal accounts
- Letters requesting information for Verification
- Civil Rights complaint form
- Special Dietary Request Form

LEAs / SOs operating the Child and Adult Food Care Program, or Summer Food Service Program should contact their program consultant for a list of documents that pertains to your program type.

**Webpages:** Web sites, used by local agencies to inform the public about CNPs must contain the nondiscrimination statement. It is not required that the nondiscrimination statement be included on every page of the program information web site. At the minimum, the nondiscrimination statement, or a link to it, must be included on the home page of the program information.

**Small Materials:** 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 is not required to be imprinted on items such as cups, buttons, magnets, and pens that identify the program, when the size or configuration makes it impractical.

**Radio/Television:** In addition, recognizing that Internet, radio, and television public service announcements are generally short in duration, the nondiscrimination statement does not have to be read in its entirety. Rather, a statement such as “The [program name] is an equal opportunity provider” is sufficient to meet the nondiscrimination requirement.

If you have questions about how to incorporate the nondiscrimination statement into your CNP materials, please contact the DESE FNP at [Nutrition@doe.mass.edu](mailto:Nutrition@doe.mass.edu) and 781-338-6480.

This institution is an equal opportunity provider.

## **Appendix A**

### **Nondiscrimination Statement**

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or
2. **fax:**  
(833) 256-1665 or (202) 690-7442; or
3. **email:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov)

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