

Guidance on Prohibition of Separation by Gender During Child Nutrition Program Meal Service

PURPOSE

To explain the prohibition on separation by gender during Child Nutrition Program meal service and outlines select circumstances under which gender-based separation may be permissible. This memorandum supersedes previously rescinded guidance SP 32-2012, CACFP 16-2012, as well as SFSP 12-2012, *“Prohibition of Separation by Gender during Child Nutrition Program Meal Service,”* originally issued May 9, 2012.

SCOPE

School food authorities (SFAs), organizations, and institutions impacted by this guidance are those participating in any of the following Child Nutrition Programs: National School Lunch Program; School Breakfast Program; Fresh Fruit and Vegetable Program; Special Milk Program; Child and Adult Care Food Program; and Summer Food Service Program. These include any schools, child or adult care institutions and facilities, camps (including residential facilities), and other sites, as defined in 7 CFR §§ 210.2, 215.2, 225.2, and 226.2, that are providing meal service as a Program activity.

DESCRIPTION

In general, SFAs, institutions, and organizations participating in the Child Nutrition Programs are not permitted to separate children on any protected basis during the service of Program meals or snacks, in keeping with Federal non-discrimination laws and policies as outlined for the Department of Agriculture (USDA) programs in 7 CFR Parts 15, 15a, and 15b. Federal law prohibits discrimination based on gender at any educational institution receiving Federal assistance.

Exceptions to the Prohibition on Gender-Separated Meal Service

For co-educational schools and school-based sites:

The Food and Nutrition Service (FNS) recognizes religious exemptions granted by the Department of Education (ED) without prior express approval. ED guidelines allow school and school-based sites to apply for an exemption when Federal law prohibiting gender separation is inconsistent with the institution’s religious tenets. These exemptions apply broadly to operations, including the meal service at a given site, such as a faith-based school.

Additionally, ED guidelines specifically allow for the approval of gender-separate instruction at public primary and secondary non-vocational schools that could take a variety of forms. It is important to emphasize that since

the general rule is that gender separation during meal service is prohibited, a co-educational school may not use limited ED approval of gender-separate instruction to justify blanket gender separation during meal service. Limited exemptions in such situations must be expressly approved by FNS.

For other institutions and organizations:

State agencies may approve exemptions allowing separation by gender during a Child Nutrition Program meal service for participating SFAs, organizations, and institutions, without express prior approval from FNS, in the following circumstances:

- Meal service at religious institutions operating under the dictates of the religion with which they are affiliated.
- Meal service at juvenile correctional facilities where combining members of the opposite gender would present a potential safety risk.
- Meal service at facilities that fully separate by gender as part of their normal operations (for example, gender-separated summer camps).

When requesting an exemption, the Child Nutrition Program operator must specify which of the above listed reasons apply and why separation by gender is necessary. State agencies must document all exemption requests, including the date of approval or disapproval, and if applicable, the duration of the approval. We recommend that exemption approvals are documented in the agreement between the Program operator and the State agency.

The above listed exemptions are the only acceptable bases for gender separation during Child Nutrition Program meal service. Any gender separation not based on the ED and/or FNS approval processes is **strictly prohibited**.

On a case by case basis, situations that do not clearly fit into any of the exemptions outlined above **may be considered** by the State agency in direct consultation with the FNS Regional Office, including the FNS Civil Rights Office and appropriate FNS National Office Child Nutrition Program staff.

SOURCE

USDA Memo: SP 31-2015, CACFP 12-2015, SFSP 14-2015; March 20, 2015

Separation by Gender Exemption Request

School Food Authority, Organization, or Institution Name:	
ID Number:	Email Address:
Authorized Representative Name and Job Title:	
Phone Number:	Date of Request:
Type of organization	Number of sites
<input type="checkbox"/> <i>Co-educational Schools</i>	
<input type="checkbox"/> <i>School-based Sites</i>	
<input type="checkbox"/> <i>Other Institutions</i>	
<input type="checkbox"/> <i>Other Organizations</i>	

1. Circumstance requiring State Agency approval for an exception allowing separation by gender (check the one that applies to your situation):
 - Meal service at religious institutions operating under the dictates of the religion with which they are affiliated
 - Meal service at juvenile correctional facilities where combining members of the opposite gender would present a potential safety risk
 - Meal service at facilities that fully separate by gender as part of their normal operations (for example, gender-separated summer camps)
 - Other circumstance that does not fit into any of the above exceptions

2. Please explain why separation of gender is necessary for your site(s):

3. _____
 Signature of Authorized Representative Date

 Printed Name and Title

State Agency Use Only

[] Approved [] Denied, reason:

Effective Date: -----

Signature: -----

Date: -----

CNP Agreement Amendment

The Attached Exemption Request, Effective -----, is added as an amendment to the CNP Agreement Between:

For the Sponsor	For the Indiana Department of Education
Name of Sponsor	
By (Signature)	By (Signature) Dr. Katie Jenner
Type or Print Name of Signee	Indiana Secretary of Education
Title	

Date

Date

Any gender separation not based on the ED and/or FNS approval processes is strictly prohibited.

The amendment will remain in effect until the Sponsor submits a written request to the State Agency to void the amendment.

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, audiotope, 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

This institution is an equal opportunity provider.