

Civil Rights Compliance Review Toolkit

for the
National School Lunch Program (NSLP)
Special Milk Program (SMP)
School Breakfast Program (SBP)



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NOTE:

This toolkit was designed to standardize the FNS Civil Rights Division’s approach to compliance work in the National School Lunch Program (NSLP), Special Milk Program (SMP) and/or School Breakfast Program (SBP). The index above notes the most common and frequent items needed when conducting compliance work.

This toolkit is a living document, and it is expected that it will be updated at appropriate intervals to capture new requirements or approaches to civil rights compliance work. Any comments can be directed to the FNS CRD Mailbox at: FNS-CRD-Web@fns.usda.gov.

This toolkit will provide the framework for the completion of similar toolkits for other programs administered by FNS. Any and all comments that can improve these materials are greatly appreciated.

Tab 1

**(Notification Letter and Request for
Information)**



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

Date Stamped After Signature

Person Addressing, Title

Department or Agency

Address

Address

Dear Mr./Ms. _____:

The purpose of this letter is to inform you that the Food and Nutrition Service (FNS), Civil Rights Division will be onsite (insert dates here), to conduct a Civil Rights Compliance Review of the (insert State name here) National School Lunch Program (NSLP), Special Milk Program (SMP) and/or School Breakfast Program (SBP).

The review will be conducted by (insert Regional CRD name here – or name of other person conducting review). He/She will assess NSLP, SMP and/or SBP's overall Civil Rights compliance with requirements set forth in Federal laws and regulations, FNS Instruction 113-1, policies and other instructions. A copy of FNS Instruction 113-1 can be found at <http://origin.www.fns.usda.gov/cr/Documents/113-1.pdf>.

The Civil Rights compliance review will be conducted independent of any other FNS review that may or may not be taking place on the same dates. While there may be some minimal areas of overlap between this review and other FNS reviews conducted by regional program staff, it is important to note that this review will result in a separate report which will only address areas pertaining to Civil Rights compliance.

While onsite, (Insert person conducting review here) will conduct interviews with State agency staff members who handle the various aspects of Civil Rights compliance. (Insert person conducting the review here) will also review documents and other materials related to Civil Rights requirements. He/She may also review and analyze program records and contact community organizations or subagencies/subrecipients as part of the review as needed.

In order to facilitate the logistics of the visit, please have a representative from your organization make contact with (Insert person conducting review here) by email at (email address here@fns.usda.gov) or by telephone at (XXX) XXX-XXXX.

In preparation for the review, please provide the information in the attached Request for Information at least thirty (30) days prior to the date of the review. We will provide the State representative with our standard Civil Rights Compliance Review Questionnaire prior to the onsite review, though it is important to note that some questions may change depending on the analysis of the information received and subsequent interviews.

(Person addressing)
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Thank you in advance for the time and consideration given by you and your staff in preparation for this review.

Sincerely,

Director
Civil Rights Division

Attachment

cc: Chief, Compliance Branch
Regional Administrator
Regional SNP Director
(Insert other recipients here)

CIVIL RIGHTS DIVISION

REQUEST FOR INFORMATION FOR STATE AGENCY SUBMISSION

Please forward the following documents and materials to (Insert name of person conducting review here plus their title). Please note that submission via email is the preferred method at: (insert your email here).

I. Civil Rights Assurances:

1. A copy of the current Federal/State agreement with Nondiscrimination Statement.
2. If applicable, three (3) sample copies of assurance agreements which include an appropriate Nondiscrimination Statement between the State agency and subrecipients that receive NSLP, SMP and/or SBP federal financial assistance.

II. Public Notification:

1. Samples of NSLP, SMP and/or SBP application and accompanying materials.
2. Samples of materials used to publicize program(s).
3. State agency outreach plan and/or sample subrecipient outreach plan.
4. Link to the State's public NSLP, SMP and/or SBP website(s).
5. Copy of public notice regarding the State's nondiscrimination policy.
6. Copies of all materials containing the Nondiscrimination Statement.

III. Racial and Ethnic Data Collection:

1. Instructions to subrecipients for collecting the racial and ethnic data from applicants, including when the information is not voluntarily disclosed by the applicant.
2. Applicable policies regarding the protection of personal data.
3. Applicable policies on record retention.
4. Copy of the racial and ethnic data collected for most recent year.
5. Copy of the most current surveys or studies conducted to analyze potentially eligible populations, applicants and program participants by race and ethnicity.

IV. Civil Rights Complaints of Discrimination:

1. Written policy regarding the State's discrimination complaint procedures.
2. Any forms or information distributed to persons wanting to file a Civil Rights complaint.
3. Any template samples used to communicate with persons filing Civil Rights complaints, including intake letters, investigative reports, communication of findings and closure letters.
4. Name, telephone number and email address of person designated to oversee the processing of Civil Rights complaints.
5. Copy of Civil Rights complaint log for 20XX-20XX.
6. Copy of State's program complaint log for 20XX-20XX.

V. Subrecipient Compliance Reviews:

1. Copy of review tool used by the State to review its subrecipients.
2. Copy of any written policy regarding Civil Rights compliance reviews including how they are conducted, by whom they are conducted, how often they are conducted, how subrecipients are selected and the scope of such reviews.

3. Schedule of reviews conducted by the State in most recent year.
4. Copies of three completed reviews (from at least two different reviewers).

VI. *Resolution of Noncompliance:*

1. Three corrective action plans distributed to subrecipients in 20XX-20XX.
2. Any written policies, practices or procedures regarding corrective actions.

VII. *Recipient/Subrecipient Civil Rights Training:*

1. Materials used to conduct Civil Rights training for subrecipients.
2. Training agenda(s) with date(s); noting who presented the training and who attended.
3. Copy of State's policies, practices and procedures that ensures that all State and subrecipient NSLP, SMP and/or SBP employees are appropriately trained in Civil Rights issues.

VIII. *Disability Compliance:*

1. Written policies, practices and procedures that address serving applicants/clients with disabilities, including but not limited to, ADA/504 notification requirements, accommodation protocols, use of relay services, availability of auxiliary aids, information available in alternative formats and website accessibility.
2. A copy of any specific training material for serving persons with disabilities not included in Section VII above.
3. Name, telephone number and email address of the employee(s) designated as the agency Americans with Disabilities Act (ADA)/504 coordinator.
4. A copy of the ADA/504 grievance procedure.
5. Copy of a sample request for proposal (RFP) or contract solicitations with Nondiscrimination Statement and ADA/504 language.
6. Copy of any transition plan for existing facilities that are not physically accessible.

IX. *Limited English Proficiency (LEP):*

1. Most recent statewide language assessment.
2. Sample forms, documents, brochures, notices and NSLP, SMP and/or SBP-related materials available in languages other than English (if languages are too numerous include materials in one additional language and a list of all available languages).
3. Copy of State's written instructions, policies and procedures to subrecipients regarding service to LEP applicants and clients, including the use of interpretation services.
4. If State agency uses a telephonic interpretation company, sample statements from most recent two (2) months, and a copy of the current contract with the company.
5. If applicable, a list of interpreters and translators maintained by the State.

Tab 2

(Civil Rights Compliance Review Questionnaire)

**Civil Rights
Compliance Review
Questionnaire
for the
National School Lunch Program (NSLP)
Special Milk Program (SMP)
School Breakfast Program (SBP)**



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Document Instructions

This questionnaire is to be used when conducting comprehensive state level NSLP, SMP and/or SBP civil rights reviews. Throughout the remainder of this document, references to *Program(s)* may apply to NSLP, SMP and/or SBP. This questionnaire is meant to be a thorough guide, but deviations or additions may be appropriate depending on the circumstances. Each civil rights question posed to the State Agency is accompanied by citations, which may apply to one or more *Program(s)*.

It is not anticipated that the review contemplated by this questionnaire would be an annual review, but rather that each State Agency administering the *Program(s)* would be reviewed every 3-5 years. In addition to comprehensive state level reviews, the organization of the questionnaire will be useful in conducting more targeted types of reviews.

Review Questions

Lead Reviewer: _____

Entity Reviewed: _____

Onsite Review Dates: _____

Review Location: _____

Section 1: Civil Rights Assurances

Citations: 7 CFR 15; 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 250; 7 CFR 3015; 7 CFR 3016; FNS Instruction 113-1, Section X, and Appendix B

To qualify for Federal financial assistance, an application must be accompanied by a written assurance that the entity to receive financial assistance will be operated in compliance with applicable nondiscrimination laws, regulations, instructions, policies, and guidelines. The Regional Office will obtain written assurance of nondiscrimination compliance from each State agency and will ensure that State agencies are obtaining written assurance of nondiscrimination from local agencies or other subrecipients that receive Federal financial assistance.

- 1. Is there a current Federal/State agreement in place for the *Program(s)* under review?** *(Citations: 7 CFR 15.4; 7 CFR 15a.4, 7 CFR 15b.5; 7 CFR 210.3; 7 CFR 210.9(b)(11); 7 CFR 215.3(d); 7 CFR 215.7(d); 7 CFR 215.14; 7 CFR 220.3(e); 7 CFR 220.7(e)(15); FNS Instruction 113-1 Section X and Appendix B(D)(1))*

- 2. Does the Federal/State agreement contain the appropriate Nondiscrimination Statement?** *(Citations: 7 CFR 15.4; 7 CFR 15a.4; 7 CFR 15b.5; 7 CFR 210.3; 7 CFR 210.9(b)(11); 7 CFR 215.7(d)(3); 7 CFR 215.14; 7 CFR 220.7(e)(15); FNS Instruction 113-1 Section X and Appendix B(D)(1))*

3. Has the Federal/State agreement been updated as necessary? *(Citations: 7 CFR 15.4; 7 CFR 15a.4; 7 CFR 15b.5; 7 CFR 210.3(b); 7 CFR 220.3(e); 7 CFR 250.12(a); 7 CFR 3015.205(b)(6); 7 CFR 3016.11(c); FNS Instruction 113-1 Section X and Appendix B(D)(1))*

4. Does the State agency maintain current nondiscrimination assurance agreements that cover FNS programs with its SFA, LEA, school and/or subrecipients? *(Citations: 7 CFR 15.4; 7 CFR 15a.4; 7 CFR 210.3(d); 7 CFR 210.9(b); 7 CFR 210.15(a)(2); 7 CFR 210.16(a); 7 CFR 215.7(d); 7 CFR 220.7(e); 7 CFR 250.12(b) and (c); FNS Instruction 113-1 Section X, and Appendix B(D)(1))*

5. Does the State agency review, approve, and monitor agreements between SFA, LEA, school and/or subrecipients and other entities? *(Citations: 7 CFR 15.4; 7 CFR 15a.4; 7 CFR 210.3(d); 7 CFR 210.9(b); 7 CFR 210.15(a)(2); 7 CFR 210.16(a); 7 CFR 215.7(d); 7 CFR 220.7(d)(1)(ii); 7 CFR 220.7(d)(1)(ix); 7 CFR 250.12(b) and (c); FNS Instruction 113-1 Section X, and Appendix B(D)(1))*

Section 2: Public Notification

Citations: 7 CFR 210; 7 CFR 220; 7 CFR 245; FNS Instruction 113-1, Section IX; The Eligibility Manual for School Meals

All FNS assistance programs must include a public notification system. The purpose of this system is to inform applicants, participants, and potentially eligible persons of the program availability, program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. Additionally, it is important to note that these measures must be taken not only by the State agency, but also by local agencies or other subrecipients.

1. How does the State agency notify the SFA of its obligation to:

- a. Inform applicants, participants, and potentially eligible persons of their program rights and responsibilities and the steps necessary for participation? How does the State agency validate to ensure the SFA meets this requirement? (Citations: 7 CFR 220.7(e)(15); 7 CFR 245.5(a) and (b); FNS Instruction 113-1, Section IX)**

- b. Advise applicants at the point of service of their right to file a complaint, how to file a complaint, and the complaint procedures? (Citation: FNS Instruction 113-1, Section IX)**

- c. Include the required nondiscrimination statement on all informational materials and sources, including but not limited to appropriate State publications, websites, telephone hotlines, posters, and other materials provided to applicants and participants including relevant subrecipient materials? (Citations: 7 CFR 245.5(a)(1)(viii); FNS Instruction 113-1, Section IX)**

2. **What specific measures are taken to ensure that public notification efforts reach Limited English Proficiency populations?** (Citations: 7 CFR Part 245.6(a)(2); FNS Instruction 113-1, Section IX and Section XI)

3. **What specific measures are taken to ensure that public notification efforts reach persons with disabilities?** (Citation: FNS Instruction 113-1, Section IX and Section XI)

4. **Is the nondiscrimination statement, or a link to it, included on the State agency's home webpage of the Program(s) information?** (Citation: FNS Instruction 113-1, Section IX)

5. **Does the State agency prominently display the USDA "And Justice for All" poster or an FNS-approved substitute?** (Citation: FNS Instruction 113-1, Section IX)

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- 6. How does the State agency inform potentially-eligible persons, applicants, participants, and grassroots organizations (particularly those in underserved populations), of *Program(s)* or changes in *Program(s)*? (Citations: 7 CFR 245.3(a); 7 CFR 245.5(a) and (b); 7 CFR 245.6(h); 7 CFR 245.6a(f)(7); FNS Instruction 113-1, Section IX and the Eligibility Manual for School Meals)**
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- 7. Does the State agency convey the message of equal opportunity in all photographic and other graphic materials that are *Program(s)*-related? (Citation: FNS Instruction 113-1, Section IX)**
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- 8. Does the State agency use the FNS prototype application for the *Program(s)*? FNS provides a new prototype application each year with the new Federal Free and Reduced Price guidelines. The application has blanks for States and schools to add in their state specific information. They must retain the information issued by FNS; however, they can modify the format. (Citations: FNS Prototype Household Application for School Year 2014-2015 – SP45-2014 dated May 12, 2014 and the Eligibility Manual for School Meals]**
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Section 3: Racial and Ethnic Data Collection

Citations: Richard B. Russell National School Lunch Act; 7 CFR 15; 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245; 28 CFR 42; FNS Instruction 113-1, Section XII and Appendix B; the Eligibility Manual for School Meals

State and SFA, LEA, school and/or subrecipients are required to obtain data by race and ethnic category on potentially-eligible populations, applicants, and participants in their program service area. Self-identification is the preferred method and information must be protected from unauthorized use.

- 1. How does the State agency, SFA, LEA, school and/or the subrecipients obtain racial and ethnic data on *potentially eligible populations in the Program(s) service areas?* (Citations: 28 CFR 42.406; FNS Instruction 113-1, Section XII)**

- 2. How does the State agency, SFA, LEA, school and/or the subrecipients obtain racial and ethnic data on *applicants in the Program(s) service area?* Provide summary of efforts and results. (Citations: FNS Instruction 113-1, Section XII and Appendix B(F))**

- 3. How does the State agency, SFA, LEA, school and/or the subrecipients obtain racial and ethnic data on *participants in the Program(s) service area?* Provide summary of efforts and results. (Citations: 7 CFR 15.5(b); FNS Instruction 113-1, Section XII and Appendix B(F))**

- 4. When was the last time the data in (1), (2), and (3) above was compiled, compared and analyzed? Obtain the dates for any data collected and relied upon and consider collecting information regarding who compiled, compared and analyzed**

the data to ensure reliability of numbers. *(Citation: FNS Instruction 113-1, Section XII and Appendix B(F)(1))*

a. What were the findings of the most recent analysis of the data, and what changes were implemented as a result of the findings? *(Citations: 28 CFR 42.406; FNS Instruction 113-1, Section XII and Appendix B(F)(1))*

5. Are the applicants given the opportunity to self-declare their race and ethnicity via the application process? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

6. Do the possible ethnic categories include 1) Hispanic or Latino and 2) Not Hispanic or Latino? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

7. Do the applicants have the opportunity to select their ethnicity separate from their race in a two-question format? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

8. Do the possible racial categories include: 1) American Indian or Alaskan Native, 2) Asian, 3) Black or African American, 4) Native Hawaiian or Other Pacific Islander and 5) White? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

9. Do the applicants have the opportunity to select more than one racial category? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

10. Are the applicants informed that providing their racial/ethnic data is voluntary, is used to evaluate *Program(s)* performance, and not used in any way to make decisions regarding an individual's benefits? *(Citations: FNS Instruction 113-1, Section XII; the Eligibility Manual for School Meals)*

11. How is racial and ethnic data collected if:

a. An applicant chooses not to voluntarily provide the information? *(Citation: FNS Instruction 113-1, Section XII)*

b. The application process uses an online application (and the applicant does not voluntarily provide the information)? *(Citation: FNS Instruction 113-1, Section XII)*

c. Children are directly certified? *(Citation: 7 CFR 245.6(b))*

d. The school uses the Community Eligibility Provision (CEP)? *(Citations: Section 11(a)(1) of the NSLA; 7 CFR 245.6(b); Policy Memo SP 21-2014)*

12. What additional guidance does the State agency provide to the local agencies (SFA, LEA, school and/or subrecipients) regarding collection of racial and ethnic data (both for the circumstances noted above in (8a and b) as well as any other general guidance)? *(Citation: FNS Instruction 113-1, Section XII)*

13. Describe any other racial or ethnic categories that the State and local offices use in addition to those required by FNS, and explain how they are mapped and extracted to the FNS categories. *(Citation: FNS Instruction 113-1, Section XII)*

14. Describe how the data is protected and the safeguards used to restrict the data from unauthorized personnel. *(Citations: 7 CFR 245.6(k); 7 CFR 220.13(g); FNS Instruction 113-1, Section XII)*

15. Does the State agency maintain records for the required 3 years? *(Citations: 7 CFR 210.23(c); 7 CFR 215.7(d)(8); 7 CFR 220.7(e)(13) and 7 CFR 220.7(e)(14); FNS Instruction 113-1, Section XII and Appendix B(F)(1))*

Section 4: Complaints of Discrimination

Citations: 7 CFR 15; 7 CFR 210; 7 CFR 215; 7 CFR 220; FNS Instruction 113-1, Sections XI, XV, XVI, XVII and the USDA Nondiscrimination Statement.

All NSLP complaints alleging discrimination on the basis of race, color, national origin, age, sex, and/or disability must be processed within the timeframes established by Departmental regulations and agreements.

- 1. Describe how frontline staff is advised to respond if someone inquires about filing a civil rights complaint.** *(Citations: 7 CFR 15.6; 7 CFR 210.19(a)(4); 7 CFR 215.7(d)(3); 7 CFR 215.11(e); FNS Instruction 113-1, Sections XV, XVI, and XVII)*

- 2. Does the State agency process ANY complaints of discrimination at the State level?** *(Citations: 7 CFR 15.6; 7 CFR 215.7(d)(3); 7 CFR 215.11(e); FNS Instruction 113-1, Section XVI)*

If the State agency *does* process complaints of discrimination:

- a. Has the State agency provided a description of its discrimination complaint/grievance processing system for review by FNS CRD?** *(Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)*

b. Does the State agency operate its system in accordance with FNS Instruction 113-1? *(Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Sections XV, XVI, and XVII)*

c. Does the State agency follow up on complaints, resolve complaints and take corrective action where warranted, and respond to the complainant with the State agency's disposition of the complaint? *(Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Sections XVI and XVII)*

d. Does the State agency prepare a written report of the investigation that includes the findings of the investigation with relation to the specific allegations of the complaint and a summary of all interviews with the complainant, participants, and community organizations and any other relevant documents? *(Citations: 7 CFR 210.15(a)(6); 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Sections XVI and XVII)*

e. Are complaints processed by the State agency within 90 days of receipt? *(Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)*

- f. **Does the State agency submit a report to FNS of each complaint processed, prior to issuing a decision letter to the complainant for the purpose of oversight and concurrence?** (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)

- g. **If an investigation is not conducted, does the State agency provide an explanation to FNS?** (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)

- h. **Does the State agency maintain records of complaints received and their disposition?** (Citations: 7 CFR 210.15(a)(6); 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 215(d)(7); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)

3. If the State agency does not process complaints of discrimination:

- a. **Are all Civil Rights complaints (including Age-based complaints) forwarded to FNS within 5 working days?** (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Sections XVI and XVII)

4. **Does the State agency maintain a log of each complaint received?** (Citations: 7 CFR 210.15(a)(6); 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)

5. **Does the State agency keep CR complaint information separate and limit access to ensure confidentiality and minimize risk of reprisal?** (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XVII)

Section 5: Compliance Reviews

Citations: 7 CFR 15; 7 CFR 210; 7 CFR 215; 7 CFR 220; FNS Instruction 113-1, Section XIII and Appendix B

The Civil Rights compliance review is a component of the FNS management evaluation review process that is conducted on an ongoing basis for all FNS programs. There are three types of compliance reviews: pre-award, post-award, and special. The Civil Rights review must examine the activities of State agencies, **SFAs, LEAs, schools and/or subrecipients** to determine that FNS programs are being administered in compliance with Civil Rights requirements.

1. **What is the State agency's process for conducting Civil Rights pre-award compliance reviews?** (Citations: 7 CFR 15.5; 7 CFR 210.23(b); 7 CFR 215.7(d)(3);

7 CFR 215.11(b)(2); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XIII and Appendix B(G)(1)(b))

- 2. What is the State agency’s process for conducting Civil Rights post-award (routine) compliance reviews?** (Citations: 7 CFR 15.5; 7 CFR 210.18(h)(2); 7 CFR 210.23(b); 7 CFR 210.29(c)(2); 7 CFR 215.7(d)(3); 7 CFR 215.11(b)(2); FNS Instruction 113-1, Section XIII and Appendix B(G)(1) and (H))

- a. Who is responsible for conducting the reviews?** (Citations: 7 CFR 210.18(h)(2); 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 215.11(b)(2); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4) FNS Instruction 113-1, Section XIII and Appendix B(G) and (H))

- b. How often are Civil Rights reviews conducted at SFAs, LEAs, schools and/or subrecipients?** (Citations: 7 CFR 15.5; 7 CFR 210.18(h)(2); 7 CFR 210.23(b); 7 CFR 210.29(c)(2); 7 CFR 215.7(d)(3); 7 CFR 215.11(b)(2); 7 CFR 220.7(g); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); 7 CFR 220.13(m); FNS Instruction 113-1, Section XIII and Appendix B(H))

c. How are the SFAs, LEAs, schools and/or subrecipients selected? *(Citations: 7 CFR 15.5; 7 CFR 210.18(c); 7 CFR 210.18(e)(2); 7 CFR 210.29(c)(2); 7 CFR 220.7(g); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); 7 CFR 220.13(m); FNS Instruction 113-1, Section XIII and Appendix B(G))*

d. Are all required Civil Rights areas covered? *(Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 215.11(b)(2); 7 CFR 220.7(g); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); 7 CFR 220.13(m); FNS Instruction 113-1, Section XIII)*

e. Does the State agency advise the SFA or LEA in writing of the review findings and recommendations? *(Citations: 7 CFR 15.5(b); 7 CFR 210.18(j) and (k)(2); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XIII)*

f. Are significant findings identified by the State agency reported to FNS? *(Citations: 7 CFR 15.5; 7 CFR 210.18(n); 7 CFR 210.20(a)(6); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XIII(B))*

Section 6: Resolution of Noncompliance

Citations: 7 CFR 15.8; 7 CFR 210; 7 CFR 215; 7 CFR 220; FNS Instruction 113-1, Section XIV

A noncompliance finding may be the result of a routine compliance review, a special review, or an investigation. Noncompliance is a factual finding that any CR requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, SFA, LEA, school and/or subrecipient.

- 1. How are noncompliance issues addressed and resolved by the State, SFA, LEA, school and/or subrecipient?** *(Citations: 7 CFR 15.8; 7 CFR 210.18(k); 7 CFR 215.11(d); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XIV)*

- 2. Who is responsible for monitoring corrective action plans?** *(Citations: 7 CFR 210.18(k)(2); 7 CFR 220.13(f)(2); 7 CFR 220.13(f)(4); FNS Instruction 113-1, Section XIV)*

Section 7: Civil Rights Training

Citations: 7 CFR 210; 7 CFR 215; 7 CFR 220; FNS Instruction 113-1, Section XI

Training is required so that people involved in all levels of administration of programs that receive Federal financial assistance understand civil rights related laws, regulations, procedures, and instructions. Persons responsible for reviewing CR compliance must receive training to assist them in performing their review responsibilities. Training may be carried out as part of ongoing technical assistance.

1. Does the State agency provide Civil Rights training to State-level staff, SFAs and LEAs? (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); FNS Instruction 113-1, Section XI)

2. Do SFAs and LEAs provide Civil Rights training to frontline staff (and any subrecipients) on an annual basis? (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); FNS Instruction 113-1, Section XI)

3. When was the last time Civil Rights training was provided by the State agency to local agencies and/or subrecipients? (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); FNS Instruction 113-1, Section XI)

4. Were the following subjects covered: Collection and use of data; Effective public notification systems; Complaint procedures; Compliance review techniques; Resolution of noncompliance; Requirements for reasonable accommodation for persons with disabilities; Requirements for language assistance; Conflict resolution; and Customer service? (Citations: 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); FNS Instruction 113-1, Section XI)

Section 8: Disability Compliance

Citations: Americans with Disabilities Act (ADA)/Americans with Disabilities Act Amendments Act (ADAAA), Sections 504 and 508 of the Rehabilitation Act; 7 CFR 15; 7 CFR 210; 7 CFR 215; 7 CFR 220; 28 CFR 35; FNS Instruction 783-2 “Accommodating Children with Special Dietary Needs in the School Nutrition Programs”; U.S. Department of Justice, ADA Requirements, “Effective Communication Guidance,” January 2014; ADA Best Practices Tool Kit for State and Local Governments

State agencies, SFAs, LEAs and other subrecipients must ensure persons with disabilities are provided an equal opportunity to participate in FNS programs. This includes provision of the necessary auxiliary aids and/or services to ensure that communications with disabled individuals (e.g. disabled clients and companions) are as effective as communication with others. “Effective communication” means that whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities. This “effective communication” is required except where a state or local government can show that providing effective communication would fundamentally alter the nature of the service or program in question or would result in an undue financial and administrative burden. Title II of the ADA/ADAAA prohibits discrimination based on disability by state and local government. The ADA and Section 504 cover issues pertaining to both physical access and program access. Section 508 covers issues pertaining to information technology access (e.g. web-based information, application systems, etc.). It is important to note that for most issues there is dual authority under both DOJ (ADA) and USDA (504) regulations, though the specifics sometimes differ.

- 1. How many persons are employed by the State agency?** This question is asked only because it is a prerequisite to the sub-questions below under DOJ and USDA regulations. For most questions in this section there is dual authority under both DOJ and USDA regulations, though the specifics sometimes differ. For this question, DOJ regulations apply to covered entities with 50 or more employees, while USDA regulations apply to covered entities with 15 or more employees. The reviewer and recipient of federal financial assistance can simply stipulate that this section applies in lieu of providing specific employment numbers. *(Citations: ADA, Title II, Subtitle A; 7 CFR 15b.6(a); 28 CFR 35.107(a))*

- a. If appropriate, has the State agency designated at least one employee to be responsible for coordinating compliance and/or grievances under ADA/504?** *(Citations: 7 CFR 15b.6(a); 7 CFR 15b.7; 28 CFR 35.107(a); U.S. Department*

of Justice, ADA Requirements, "Effective Communication Guidance"; ADA Best Practices Tool Kit for State and Local Government, Chapter 2, ADA Coordinator, Notice & Grievance Procedure and Chapter 3, "General Effective Communication Requirements Under Title II of the ADA."

- b. What type of ADA/504 experience and training has the person(s) identified above received?** *(References: Title II Technical Assistance Manual, Section 8.2000(12); ADA Best Practices Toolkit for State and Local Governments, Chapter 2)*

- c. Are there developed and published grievance procedures and due process standards to provide fair and prompt resolution of ADA/504 complaints at the State, SFA and subrecipient level** *(Citations: 7 CFR 15b.6(b); 28 CFR 35.107(b))*

- 2. Are potential applicants/participants notified of protections under the ADA/504?**

Notification requirements of the protections under the ADA and 504 are required by recipients of federal financial assistance. The notification should apprise participants of the information in question 1 (above) regarding general protections for persons with disabilities, availability of no-cost auxiliary aids and/or services and other reasonable accommodations, the grievance procedures and the name of the ADA/504 complaint coordinator. *(Citations: 7 CFR 15b.7(a) and (b); 28 CFR 35.106; FNS Instruction 113-1, Section IX)*

- 3. What are the policies and practices in place to ensure that persons with disabilities are served in a nondiscriminatory manner (including providing reasonable accommodation in the meal service) and that persons with disabilities are provided with an equal opportunity to participate in FNS program services?** *(Citations: 7 CFR 15(b.26)(d); 7 CFR 210.10(m)(1); 7 CFR 220.23(d)(1); 28 CFR 35.130(b)(7); 28 CFR 35.160; Section 504(a); FNS Instruction 783-2; U.S. Department of Justice, ADA Requirements, “Effective Communication Guidance”; ADA Best Practices Tool Kit for State and Local Governments, Chapter 3, “General Effective Communication Requirements Under Title II of the ADA.”)*

- 1. Do the policies and procedures collected above specifically note that reasonable accommodations must be made in existing policies, practices and procedures to accommodate persons with disabilities?** *(Citations: 7 CFR 15(b.13); 7 CFR 210.10 (m)(1); 7 CFR 220.23(d)(1); 28 CFR 35.130(b)(7); FNS Instruction 783-2)*

- 4. How are staff members trained to assist persons with disabilities who may require accommodations?** This information may have been previously submitted in the training section. *(Citations: Title II Technical Assistance Manual, Section 8.2000(12); 7 CFR 210.23(b); 7 CFR 215.7(d)(3); 7 CFR 220.7(e)(15); FNS Instruction 113-1, Section XI; FNS Instruction 783-2, Section IV(B))*

5. **What are the alternative formats (i.e. Braille, large print, visual, audio, etc.) that the State agency uses to provide information to persons needing auxiliary aids and services to ensure effective communication?** *(Citations: 7 CFR 15b.37; 28 CFR 35.160(b)(1); U.S. Department of Justice, ADA Requirements, “Effective Communication Guidance,” January 2014; ADA Best Practices Tool Kit for State and Local Governments, Chapter 3, “General Effective Communication Requirements Under Title II of the ADA.”)*

6. **What are the protocol(s) in place to specifically accommodate persons with speech and hearing disabilities, especially as it relates to provision of qualified sign language interpreters and the usage of TTY/TDD and/or other telecommunication relay services at the State, SFA, LEA, school and/or subrecipient levels?** *(Citations: 7 CFR 15b.37; 28 CFR 35.160(b)(1) and (d); 28 CFR 35.161; U.S. Department of Justice, ADA Requirements, “Effective Communication Guidance,” January 2014; ADA Best Practices Tool Kit for State and Local Governments, Chapter 3, “General Effective Communication Requirements Under Title II of the ADA.”)*

7. **Describe information conveyed in Requests for Proposals (RFPs), solicitations and/or contracts involving *Program(s)* subrecipients (e.g. food service management companies (FSMC)) that communicate compliance responsibilities under ADA/Section 504?** *(Citations: 7 CFR 15b.5(a); 7 CFR 210.21(c); 7 CFR 220.16(c); 28 CFR 35.130(b); FNS Instruction 113-1, Section X)*

8. Are websites and information technology systems compliant with State and/or Federal accessibility rules? Though Section 508 only applies to Federal agencies, every state has similar accessibility laws covering websites that it operates. Many have simply adopted 508 standards. Additionally, the DOJ has consistently maintained that Title II of the ADA applies to state and local government websites. *(Citation: Section 508 of the Rehabilitation Act, Amendments of 1998)*

9. Are State, SFA, LEA, school and other subrecipient offices and facilities physically accessible to Program(s) applicants and participants? Accessible facilities are required by both the ADA and Section 504. Agencies previously were required to prepare a transition plan to address facilities that were not physically accessible. *(Citations: 7 CFR 15b.18(a)-(g) and 15b.19; 28 CFR 35.149-151)*

Section 9: Limited English Proficiency (LEP)

Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; FNS Instruction 113-10; DR 4330-005; 7 CFR 15; USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency (Brochure)

States, SFAs, LEAs, schools and/or subrecipients that fail to provide free services to potentially eligible persons, applicants, and participants, who are Limited English Proficient (LEP) or deny LEP persons access to federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations. Title VI and its regulations require State agencies, local agencies, or other

subrecipients to take reasonable steps to ensure “meaningful access” to the programs and activities they provide.

What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. The DOJ has published comprehensive guidance in this area (FR/Vol. 67, No. 117, June 18, 2002). DOJ guidance recommends that reviewers consider the following factors as a starting point in their analysis of meaningful access: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs. Reviewers may also want to refer to the DOJ’s Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs to assess whether the State, SFA, LEA, school and/or subrecipient is taking reasonable steps to ensure LEP persons have meaningful access to FNS-funded programs and activities. The tool is available [here](#).

- 1. Have any assessments been done at the State, SFA, LEA, or schools to determine if there are limited English proficient populations?** *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

- 2. Describe the results of any assessment(s).** *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

3. Does the State agency, SFA, LEA, school and/or subrecipient have a language access policy, plan, or procedure in place? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

4. What languages other than English are spoken most frequently within the state? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

5. What vital documents, such as program information, applications, notices, and website information, are available in languages other than English? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

6. How does the State agency (including SFA, LEA, school and/or subrecipients) ensure that its bilingual program materials are accurate translations and contain complete information? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

7. How does the State agency (including SFA, LEA, school and/or subrecipients) determine when it is necessary to update or modify bilingual program materials? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

8. What are the standards, policies, or practices utilized by the State agency, SFA, LEA, school and/or subrecipient to ensure that multilingual employees are qualified to serve as interpreters? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

9. What instruction/training does the State agency provide to SFAs, LEAs, and schools regarding the use of qualified staff/interpreters for LEP individuals? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

10. What telephonic interpretation company or service and translation company or service or other contracts does the State, SFA, LEA, school and/or subrecipient have for obtaining qualified interpreters and translators for LEP applicants and participants? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

11. Do LEP policies and instructions discourage the use of family members (especially children) by the State, SFA, LEA, school and/or subrecipients for translation or interpretation services? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

12. Does the State, SFA, LEA, school and/or subrecipient maintain a list of qualified interpreters and translators/agencies? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

13. Describe any training provided to translators and interpreters, including what they are told about confidentiality, ethics and other requirements. *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

14. Overall, has the State agency identified any substantive differences in processing times for applications, appeals, etc. at the SFA, LEA, or school level because applicants or participants are LEP individuals? *(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)*

15. What information is conveyed in Requests for Proposals (RFPs), solicitations and/or contracts involving *Program(s)* subrecipients (e.g., contracted food service management companies (FSMC)) that communicate the obligation to provide

LEP individuals with meaningful access to FNS programs, if applicable?

(Citations: Title VI of the Civil Rights Act of 1964; Executive Order 13166; FNS Instruction 113-1, Sections VII and XII; DR 4330-005; 7 CFR 15; Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 229 (November 28, 2014); DOJ Limited English Proficiency brochure)
