

Directive

Language and Disability Access Requirements for School Food Authorities

The U.S. Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and sex. Sex includes gender identity and sexual orientation. The USDA regulations at *7 CFR 15* and *7 CFR 15b* require school food authorities participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP) or Special Milk Program (SMP) to comply with requirements respecting nondiscrimination.

The GA DOE is committed to taking reasonable steps to ensure meaningful access to the School Nutrition Program for individuals with limited English proficiency (LEP). The GA DOE also is committed to providing individuals with disabilities an equal opportunity to participate in the School Nutrition Program. GA DOE, School Food Authorities (SFA), local educational agencies (LEAs) and schools that fail to provide language assistance services to individuals with LEP may be discriminating on the basis of national origin. Similarly, public entities and public accommodations that fail to make reasonable modifications in policies, practices and procedures to accommodate qualified individuals with a disability may be discriminating on the basis of disability.

To this end, GA DOE, School Food Authorities (SFAs), local educational agencies (LEA) and schools must adopt the following directives:

Meaningful Access for Persons with Limited English Proficiency (LEP)

1. Identify and assess the language assistance needs of LEP persons and the resources to serve them.
2. Notify all customers in LEP languages of their right to receive qualified, competent language assistance services free of charge and how to request these services.
3. Ensure the linguistic and cultural competence of all interpretation and translation services provided. (Use of family members as interpreters is highly discouraged. Reliance on children is discouraged unless it is an emergency situation that is not reasonably foreseeable. Children may only be used under the most exigent of circumstances and only as a last-resort alternative.)
4. Provide LEP individuals with the language assistance services they need to complete the application, certification, and verification process. This includes discussions with LEP parents and guardians regarding the School Nutrition Program. Simply offering the most common non-English language is not sufficient.
5. Translate applications and other household materials (letter, instructions, notices, and verification materials) in a language the LEP individual can understand.

6. Ensure language barriers do not prevent LEP individuals from navigating the website and accessing customer service telephone voice mail menus to obtain information about the school meal application process.
7. Document, evaluate and monitor the language assistance services provided to LEP individuals at the point of contact.

Equal Opportunity to Access for Individuals with a Disability

1. Appoint a *Section 504/ADA* Coordinator and provide the public with the name and contact information for this coordinator. In many cases, the 504 Coordinator is responsible for addressing requests for accommodations in the school in general and may not be a School Nutrition staff member. Regardless of whether the coordinator is a school food service employee, the coordinator must ensure school food service professionals understand the procedures for handling requests for reasonable modifications/accommodations.
2. Make reasonable modifications in policies, practices and procedures when modifications are necessary to ensure that GA DOE, SFAs, LEAs and schools do not discriminate against individuals with disabilities, in the School Meals Program or meal service area unless these entities can demonstrate that making the modification would fundamentally alter the nature of the service, program or activity.
3. Develop procedures for parents/guardians to request reasonable modifications.
4. On a case-by case basis, provide the aid, benefit or service that is as equally effective in affording equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement in the most integrated setting appropriate, as that provided to others.
5. Ensure equally effective communication at no cost for applicants, participants, members of the public and companions with disabilities through the provision of appropriate auxiliary aids and services, giving primary consideration to the customer's requested aid or service. State and local government entities must honor that choice, unless they can demonstrate that another equally effective means of communication is available, or the aid or service requested could be considered a fundamental alteration. Nongovernmental entities (public accommodation) are encouraged to consult with the individual with disabilities to identify which aid or service will ensure equally effective communication for them.
6. Consult with the USDA Food and Nutrition Service in rare cases where an SFA or LEA believes provision of the requested modification would cause undue financial burden on the program or activity to the level that it would make continued operation of the program unfeasible. Denying a modification(s) under the fundamental alteration exception should not result in the denial of access to the program or other benefits or services.

7. Notify the public about the availability of free auxiliary aids and services and other reasonable modifications and how to request these services, including the name and contact information for the Section 504/ADA Coordinator and procedural safeguard requirements, including how to file a grievance.
8. Provide only qualified sign language interpreters and do not require individuals with disabilities to supply their own sign language interpreter or other aid or service. Programs cannot rely on the accompanying adult if the adult is hesitant or not willing to provide communication assistance. GA DOE, SFAs, LEAs and local schools must not rely on minor children to interpret or assist with communication unless there is an emergency situation involving an imminent threat to the safety or welfare of an individual or the public and no other interpreter is available.
9. Administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
10. Permit service animals to accompany persons with disabilities in all areas where the general public has access. (Although not a service animal, a miniature horse that has been individually trained to work or perform tasks for people with disabilities has protections similar to a service animal.)
11. Provide program accessibility, particularly to persons in wheelchairs and with Other Power-Driven Mobility Devices (OPDMD).
12. Ensure websites, including state and local agency websites, and online application systems are readily accessible to and useable by persons with visual, hearing and other disabilities.
13. Comply with the 2010 ADA Standards and the 1991 ADA Standards for Accessible Design.
14. Develop procedures for evaluating School Nutrition Program services to determine if they ensure individuals with disabilities are provided with an equal opportunity to participate through provision of reasonable modifications and equally effective communication. (Programs that employ 50 or more employees must also develop a transition plan for making structural changes or alternations to its facilities, websites, and online automated benefits systems to ensure program accessibility.)

Staff Training

Each staff member in the School Nutrition Program who comes in contact with members of the public must be trained on GA DOE's language access and reasonable modifications directive at the employee's initial orientation and at regular intervals thereafter. This training shall ensure staff know how to access language assistance services for individuals with LEP and auxiliary aids and services for individuals with disabilities.

Federal Authorities

- *Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000 et seq.*
- *Title II of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12131 - 12134 et seq., as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) [Public Law 110–325, 122 Stat. 3553 (2008)]*
- *Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181–12189), as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) [(Public Law 110–325, 122 Stat. 3553 (2008)]*
- *Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 et seq.*
- *Section 9(b) of the Richard B. Russell National School Lunch Act, 42 USC 1758(b)*
- *7 CFR 15*
- *7 CFR 15b*
- *7 CFR 245.6 (a)(2)*
- *28 CFR 35*
- *28 CFR 36*

Federal Guidance/Requirements

- *USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency (79 FR No. 229, p. 70771, November 28, 2014) is attached as **Annex A** and available at: <https://www.gpo.gov/fdsys/pkg/FR-2014-11-28/pdf/2014-27960.pdf>*
- *USDA FNS Policy Memo SP 37-2016: Meaningful Access for Persons with Limited English Proficiency in the School Meal Programs: Guidance and Q&As attached as **Annex B** and at: <https://www.fns.usda.gov/meaningful-access-persons-limited-english-proficiency-lep-school-meal-programs-guidance-and-qas>*
- *USDA FNS) SP 59-2016: Policy Memorandum on Modifications to Accommodate Disabilities in the School Meal Programs (September 27, 2016) attached as **Annex C** and at: <http://www.fns.usda.gov/policy-memorandum-modifications-accommodate-disabilities-school-meal-programs>*

- *USDA FNS issued SP 26-2017: Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers (Q&As) (May 1, 2017)* attached **Annex D** and at: <https://www.fns.usda.gov/school-meals/accommodating-disabilities-school-meal-programs-guidance-and-qas>
- *USDA FNS Accommodating Children with Disabilities in the School Meal Programs Guidance for School Food Service Professionals (July 25, 2017)* attached at **Annex E** and at: <https://fns-prod.azureedge.net/sites/default/files/cn/SP40-2017a1.pdf>
- *DOJ ADA Update: A Primer for State and Local Governments* attached at **Annex F** and at: https://www.ada.gov/regs2010/titleII_2010/titleII_primer.pdf
- *FNS Instruction 113-1 Civil Rights Compliance and Enforcement – Nutrition Programs and Activities, November 8, 2005* attached at **Annex G** and at <https://fns-prod.azureedge.net/sites/default/files/113-1.pdf>

Annex A: *USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency (November 28, 2014).*

Annex B: *USDA FNS Policy Memo SP 37-2016: Meaningful Access for Persons with Limited English Proficiency in the School Meal Programs: Guidance and Q&As*

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Annex D: *USDA FNS issued SP 26-2017: Accommodating Disabilities in the School Meal Programs: Guidance and Questions and Answers (Q&As) (May 1, 2017)*

Annex E: *USDA FNS Accommodating Children with Disabilities in the School Meal Programs Guidance for School Food Service Professionals (July 25, 2017)*

Annex F: *DOJ ADA Update: A Primer for State and Local Governments*

Annex G: *FNS Instruction 113-1 Civil Rights Compliance and Enforcement – Nutrition Programs and Activities (November 8, 2005)*