

Commissioner's Memo
5/21/2015

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

Memo Information

Memo Number	FIN-15-114
Memo Date	5/21/2015
Memo Type	Informational
Unit	Fiscal & Administrative Services
Regulatory Authority	§7 CFR Parts 15, 15a, and 15b
Response Required	NO
Attention	Elementary Principals; Middle School Principals; High School Principals; Superintendents; Child Nutrition Directors

Primary Contact Information

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Memo Text

On March 20, 2015, the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS) released Policy Memo SP-31-2015 entitled, "Guidance on Prohibition of Separation by Gender during Child Nutrition Program Meal Service." This memorandum explains the prohibition of 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 This memorandum supersedes previously rescinded guidance SP 32-2012, CACFP 16-2012, as well as SFSP 12-2012, "Prohibition of Separation by Gender during Child Nutrition Program Meal Service," originally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.

School food authorities (SFAs) participating in any Child Nutrition Programs are impacted by this guidance.

In general, SFAs 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 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:

FNS recognizes religious exemptions granted by the United States 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).

The written request for an exemption must specify which of the above listed reasons apply and why separation by gender is necessary. For School Year (SY) 2015-16, SFAs requesting an exemption must use the attached form signed by the Superintendent and submit to Suzanne Davidson at the address below. The SFA will receive a written response of approval (with duration) or denial of the request.

The above listed exemptions are the only acceptable basis 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. SFAs requesting consideration of situations that do not clearly fit into any of the exemptions outlined above should submit written letter of request signed by Superintendent describing situation and necessity to:

Suzanne Davidson, Director
Child Nutrition Unit, Arkansas Department of Education
2020 West 3rd Street, Suite 404
Little Rock, AR 72205

Attachments

- [Request_for_Exemption_form.docx](#)