



State of Arizona
Department of Education

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SFSP CN# 13-12
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MEMORANDUM

TO: Sponsors of the National School Lunch Program and Summer Food Service Program

FROM: Mary Szafranski, Deputy Associate Superintendent
Arizona Department of Education, Health and Nutrition Services

Cara Peczkowski, Director
Arizona Department of Education, School Nutrition Programs

DATE: May 31, 2012

SUBJECT: Guidance on Prohibition of Separation by Gender in Schools During School Meals

Original Signed

This memorandum sets forth guidance to all school food authorities (SFAs) that receive federal funding from Food and Nutrition Service (FNS), Child Nutrition Programs (CNP) under the United States Department of Agriculture (USDA). This would include the National School Lunch Program, School Breakfast Program, Special Milk, and the Summer Food Service Program. These programs receive federal funds for providing free, reduced and paid program meals. Under USDA statutes and regulations, SFAs may not separate children by gender in the service of program meals that fall under the aforementioned CNPs. In addition, this requirement applies to children who do not consume program meals, but are in a facility that receive federal funds from FNS.

This guidance provides clarification to the statutory requirements that prohibit separating children by gender in any facility receiving federal funds appropriated for providing meals under the CNPs. Facilities are defined as schools and summer feeding sites.

Under the governing statute for CNPs, FNS does not have the authority to grant SFAs a waiver to the requirements mandated under these acts in the enforcement of constitutional statutory rights of individuals under Title IX((42U.S.C.1760(1)(4)(M)(iii)).

An exemption by an educational institution controlled by a religious organization may be filed with the USDA pursuant to 7 CFR15(a)12(b). The exemption must be in writing and by the most senior official of the requesting institution. The request must also identify which part of this policy violates a specific tenet of the religious organization.



Authority

Title IX of the Education Amendment Act of 1972, 20U.S.C.1681, *et seq.*

Title VI of the Civil Rights Act of 1964, 42U.S.C.2000d, *et seq.*

The Richard B. Russell National School Lunch Act (NSLA), as amended, 42U.S.C.1760(j), *et seq.*

The Child Nutrition Act of 1966 (CAN), 42U.S.C.1771, *et seq.*

7 CFR 15(a) (12)

7 CFR 15 (a) (31)

FNS Instruction 113-1

If you have any questions on these requirements, please contact your School Nutrition Programs Specialist at 602-542-8700.

Rescinded

This institution is an equal opportunity provider.