



Hello and welcome to the fiscal year 2021 Civil Rights training for USDA child nutrition programs, including the Child and Adult Care Food Program. This training is designed to keep you up to date on the Federal Civil Rights requirements for the current program year.

This training is designed for Family Day Care Home providers.

## Purpose of today's training

### By the end of today you will:

- Understand the basics of Civil Rights compliance for Family Day Care Home providers in the Child and Adult Food Program (CACFP).
- Complete your required annual training for Civil Rights Compliance.



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The purpose of this training is to educate Massachusetts Family Day Care Home providers on the federal Civil Rights requirements that they must adhere to as part of the Child and Adult Care Food Program (also known as CACFP).

This training is an annual requirement and is monitored by your Sponsoring Organization.

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This slide provides you with a brief outline of what we will be discussing during today's presentation.

We will start with an introduction to Civil Rights, and then address several components of adhering to Civil Rights requirements, including:

- Making reasonable modifications for participants with disabilities
- Providing language assistance for individuals with limited English proficiency
- Providing customer service and resolving conflicts in your program
- Process and procedures for filing Civil Rights complaints
- Civil Rights compliance reviews and Civil Rights training requirements, and finally
- The current USDA nondiscrimination statement



# 01

## Introduction to Civil Rights

Let's begin with an introduction to Civil Rights.

In this section we will cover the USDA requirements on Civil Rights adherence, what discrimination means, and who is protected under the nondiscrimination policy.

## Federal funds and Civil Rights

### FNS Instruction 113-1

The United States Department of Agriculture (USDA) prohibits discrimination in all its programs and activities.

As part of your CACFP contract, you must assure the Sponsoring Organization that you will adhere to all Civil Rights requirements.



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The USDA prohibits discrimination in all of its programs and activities, which includes CACFP. This means that the USDA must ensure that public funds are not spent in a way which encourages, subsidizes, or results in discrimination.

Therefore, if you are receiving federal funds through CACFP you need to assure that your organization is meeting all Civil Rights requirements. This is part of the contract you sign when you become a CACFP Family Day Care provider.

## Civil Rights and discrimination

### Civil Rights

- The right to freedom from discrimination

### Discrimination

- The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes.



So, what exactly are Civil Rights? Civil Rights are the right to freedom from discrimination.

Discrimination is defined as, “the act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions or lack of actions based on their protected classes.”

## Protected classes

### Nationally ([FNS 113-1](#)):

- Race
- Color
- National Origin
- Age
- Sex
- Disability

### Massachusetts

ALL federal groups, plus:

- Religion
- Gender identity
- Sexual orientation

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The definition of discrimination from the previous slide included the phrase “protected classes”. So what are protected classes? A protected class is any person, or group of people, who have characteristics for which discrimination is prohibited.

National policy identifies six protected classes; these classes are race, color, national origin, age, sex, and disability. In addition to the six national classes, Massachusetts has three additional protected classes which are Religion, gender identity, and sexual orientation.

USDA programs must be delivered equitably to all people. Program providers must be made aware of the protected classes and their Civil Rights responsibilities in your organization and in the operation of CACFP.



## 02

## Reasonable modifications

In that first section we addressed what Civil Rights are, and who is protected from discrimination. In this section, we will discuss how programs are expected to make reasonable modifications to their program sites in order to meet the needs of program participants who may be part of a protected class.



## Reasonable modifications: disabilities

- Homes are required to make substitutions to meals for participants with a disability, when the disability restricts their diet.
  - Food choice alternatives for allergies
  - Altering the consistency of a food item
  - Meal service support



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In our discussion of protected classes we saw that one nationally-protected class is individuals with a disability.

As an individual's disability may impact their diet or nutritional needs, the USDA **requires** that program operators make reasonable modifications to the meal, including providing special meals at no additional cost, to accommodate someone with a disability. Meal modifications may include offering an alternative to a food that a child is allergic to, altering the consistency of a food component to facilitate feeding, or supporting the child during the meal service so they may participate in the meal.

## Defining disability

### FNS language on disability definition: ([CACFP14-2017/SFSP 10-2017](#))

- Reducing burden on disabled person to prove disability, program operator from having to determine disability
- **Expanded and clarified** definition of disability:
  - *physical or mental impairment which limits one or more “major life activity”*
    - eating & digestion



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This requirement to accommodate disabilities is a longstanding policy from the USDA. However, there has been a change to the way this is implemented; in June 2017, the USDA released a memo which broadened the definition of a disability. The purpose of this was twofold: first, to eliminate the burden on the disabled person from having to “prove” their disability; secondly, to ease the burden on program operators, so they are not responsible deciding what constitutes a disability.

This memo, which is linked here in the slide, states that:

“A disability is defined as a mental or physical impairment which *limits* one or more “major life activity”— [the impairment] does not need to be life threatening to constitute a disability.”

Under this definition, eating and digestion are considered major life activities, and therefore an impairment to eating or digestion could be considered a disability. That means that food allergies, such as lactose intolerance, may be considered disabilities and must be accommodated for when a written statement is provided stating that the participant has a disability.

This is different from previous years where a food intolerance, such as lactose intolerance, was not considered a disability but a “medical condition” and program operators were encouraged, but not required, to make a substitution even with a medical statement on file.

## Medical Statement to Request Special Meals and/or Accommodations in Child Nutrition Programs

**The updated medical statement form is available from your sponsor**

- Updated language on disability, to include food allergies
- Added specific language to acceptable substitutions
- Medical authority signature

**MEDICAL STATEMENT TO REQUEST CHILD NUTRITION PROGRAMS SPECIAL MEALS AND/OR ACCOMMODATIONS**

1. School/Agency Name	2. Site/Provider Name	3. Site Telephone Number
4. Name of Participant	5. Age or Date of Birth	
6. Name of Parent or Guardian	7. Telephone Number	

8. Check One:  
 Participant has a disability, which may include a food allergy, and requires a special meal or accommodation. Schools and agencies must make reasonable modifications to the meal to accommodate a disability which restricts a participant's diet. Modifications during and for food service may be required. Schools and agencies participating in federal nutrition programs must comply with requests for special meals. A licensed physician, physician's assistant, or nurse practitioner must sign this form.  
 Participant does not have a disability, but is requesting a special accommodation for a fluid milk substitute that meets the nutrient standards for non-dairy beverages offered as milk substitutes. Food preferences are not an appropriate use of this form. Schools and agencies participating in federal nutrition programs are encouraged to accommodate reasonable requests. A licensed physician, physician's assistant, nurse practitioner, parent, or guardian may sign this form.

9. If participant has a disability, provide a brief description of participant's major life activity affected by the disability:

10. Diet prescription and/or accommodation. (Please describe in detail to ensure proper implementation-use extra pages as needed)

11. Indicate texture:  
☐ Regular ☐ Chopped ☐ Ground ☐ Pureed

12. Schools and agencies are not required to provide the exact substitution or other modification requested. However, must offer a reasonable modification that effectively accommodates the participant's disability and provides equal opportunity to participate in or benefit from the federal nutrition programs.  
 Foods to be omitted and available/acceptable substitutions. (Please list specific foods to be omitted and suggested substitutions; you may attach a sheet with additional information as needed)

A. Foods To Be Omitted	B. Available/Acceptable Substitutions

13. Modifications for meal service:

14. Signature of Program?	15. Printed Name	16. Telephone Number	17. Date
18. Signature of Medical Authority*	19. Printed Name	20. Telephone Number	21. Date

\*Parent/guardian signature is acceptable for fluid milk substitutes for a child with dietary needs other than a disability.  
 \*Medical Authority's signature is required for participants with a disability.  
 The information on this form should be updated to reflect any changes to the current medical and/or nutritional needs of the participant, and updated annually.  
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MA 808 ENRM001 01/17/2016, June 2017

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To document a disability, a child must have a completed and signed “Medical Statement to Request Special Meals and/or Accommodations in Child Nutrition Programs” form, which is available from your sponsoring agency.

This form has recently been updated to address the changes we just discussed.

The changes to this Medical Statement form include:

- Updated language on what constitutes a disability to include food allergies
- Details on what sponsors are required to do, including making a reasonable modification to meet the needs of the individual, but they are not required to serve the exact request
- Change in language from requiring a physician signature to a medical authority signature. A medical authority includes physician's assistants and nurse practitioners or anyone else eligible to write medical prescriptions under state law

## Accommodating a disability and meeting the meal pattern

**You can often accommodate a disability while remaining within the meal pattern.**

Meals that do not meet meal pattern *must* be supported by medical statement to be eligible for reimbursement.



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If a participant has a disability, it's sometimes possible to accommodate this disability while staying within the meal pattern. For example, if an individual were allergic to apples, and that was part of the posted snack item at your program that day, instead of an apple you could offer an orange or another fruit or vegetable. This way, the disability is accommodated for, and the snack still meets the meal pattern for a reimbursable meal.

However, if it is not possible for a meal or snack to meet the meal pattern because of a disability, a medical statement **MUST** be on file in order for you to be reimbursed for that meal.

If a disability impacts the ability to adhere to the meal pattern, the disability must be supported by a written statement from a licensed healthcare professional in order for that meal to be reimbursable.



## 03

## Limited English Proficiency (LEP)

Language is also an important part of program accessibility. We will now briefly touch on how to ensure that your program is taking the necessary steps to support individuals with Limited English Proficiency, or LEP.

## Limited English Proficiency (LEP): language assistance

- Language barriers and Limited English Proficiency (LEP) as a source of program discrimination
- Providers are responsible to take reasonable steps to ensure access to their programs and activities by persons with Limited English proficiency (LEP).
- Providers should work with their Sponsoring Organization to ensure access to language assistance services for persons with LEP (when necessary).

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Next, we are going to discuss another part of your program which may require reasonable accommodations. Language or communication barriers may be considered potentially discriminatory actions. CACFP program operators are required to take reasonable steps to ensure access to their programs by individuals with limited English proficiency or LEP.

For Family Day Care Providers, they should work with their Sponsoring Organization to identifying when access to language assistance for LEP persons is necessary and what reasonable steps must be taken.

## Language assistance- reasonable steps

- What are “reasonable steps”?
  - Number or proportion of LEP persons eligible to be served, or likely to be encountered
    - How many LEP people do you encounter in your general eligible population?
    - How many LEP people are likely to be encountered within your program’s service area?
  - Frequency of contact with the program
    - How often do LEP individuals come in contact with your program?
  - Nature of the program
    - What type of program are you providing?
  - Resources available
    - What resources are available to the individual, and what would be the cost to make more available?
      - ❖ Resources may include: interpretive services, translation capabilities for documents

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Providers should work with their Sponsoring Organization to take reasonable steps towards ensuring access to their program for persons with LEP.

What are considered reasonable steps? There are four main questions to consider when determining what is “reasonable” for your program:

1. Numbers: How many individuals (or what proportion of individuals) with limited English proficiency do you encounter in your general eligible population for the program? How many individuals are likely to be encountered within your program’s service area that are LEP?
2. Frequency: How often do you come into contact with individuals with limited English proficiency?
3. Nature of program: What is the nature of your program, and how important is it?
4. Available resources: What resources are available to the recipient, and what would it cost to make resources available?





## 04

## Customer service and conflict resolution

Next, let's talk about the providing quality customer service for all individuals who come into contact with the CACFP.

## Customer Service

### **Good customer service reduces the chance of receiving discrimination complaints**

- In all aspects of your programming, be courteous and thoughtful
- Be polite and patient with participants and guardians.
- Listen and ask questions.
- Be empathetic.
- Train staff on customer service and conflict resolution.



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Providing quality customer service reduces or eliminates the chances of receiving a discrimination complaint. In all aspects of your programming, be courteous and thoughtful to participants and their families or guardians. This includes being polite and patient with individuals as they may ask you many questions about how the program works and what is available to them. Allow them to ask questions, and listen to their concerns.

When possible, be empathetic to their needs. Sometimes it is hard to understand that people may not know the rules or understand how these programs work. Individuals may feel uncomfortable in asking questions or asking for help.

Organizations that provide training on customer service and conflict resolution are more sensitive to Civil Rights issues and compliance.



05

## Complaints of discrimination

Next, let's talk about the process for receiving or filing a complaint related to Civil Rights.

## Civil Rights complaints: filing facts

### Filing facts

- Individuals have a right to file a complaint
- Never discourage complaint filing
- Complaints can be verbal or written
  - Form or letter ([USDA letter requirements](#))
- Complaints must be made within 180 days of alleged action
- Public posting of complaint filing process is part of the **required** public notification system



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As we just mentioned, providing quality customer service can help reduce the chance of receiving a Civil Rights complaint; however, if a participant, potentially eligible person, or any individual who comes into contact with the CACFP program feels that their Civil Rights have been violated in any way, they have the right to file a Civil Rights complaint. You should never discourage an individual from filing a complaint.

Discrimination complaints can be made either verbally or in writing. On the USDA Civil Rights website, which is linked on this slide, there is an outline what information must be included in a complaint letter. If an individual would rather complete a complaint form than file a letter, they can contact the email address listed on that website to receive a copy of the form. Regardless of which format they choose to use, complaints must be filed within 180 days of the alleged discrimination action. This is roughly just under 6 months' time.

There are two main resources you should direct individuals to when they would like to file a complaint.

- First, you should provide a copy of the non-discrimination statement
- Second, you should provide them with the link to the USDA Civil Rights webpage, and show them the instructions on how to request a complaint form and/or submit a letter.
- Let them know that the USDA website contains all the instructions on how to file a complaint, and includes sources of support that they can access for free.

## Civil Rights complaints: Federal vs. State process

### Filing a complaint for violation against a federally protected class

- A complaint citing a Federal protected class (race, color, national origin, sex, disability, and/or age), must be submitted ***directly through the USDA Food and Nutrition Service (FNS)***

### Filing a complaint for violation against a state protected class

- A complaint citing any State protected classes (religion, gender identity, sexual orientation), can be submitted ***to the MA DESE Problem Resolution System Office***
- All Civil Rights complaints received at MA ESE will be logged and forwarded to USDA

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The type of complaint made will determine whether it is processed by the state agency or if it goes directly to the USDA. If an individual is filing a complaint citing discrimination against a FEDERALLY protected class, which include– race, color, national origin, sex, disability, and/or age– then this complaint must be filed directly with the USDA Food and Nutrition Services.

If an individual is filing a complaint citing discrimination against a STATE protected class, which include– religion, gender identity, and/or sexual orientation– then this complaint would be filed with the MA DESE Problem Resolution System Office. Please note that all civil right complaints received by the MA DESE, regardless of impacted affected class, will be logged and forwarded to the USDA.

## How to file a Civil Rights complaint

### Federal complaint filing

- [USDA Nondiscrimination statement](#)
- [USDA Civil Rights website](#) includes instructions for filing including how to access a complaint form, and resources for individuals who may need assistance.

### State complaint filing

- [USDA Nondiscrimination statement](#)
- [MA DESE OFNP Civil Rights website](#) includes instructions for filing including how to access a complaint form, and resources for individuals who may need assistance.

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When filing a complaint either directly with the USDA or with MA DESE, there are a few important things to know.

- First, regardless of filing a Federal or State complaint, you should provide the individual with a copy of the non-discrimination statement (linked here from the ESE website).
- Next, discrimination complaints can be made either verbally or in writing. On the USDA Civil Rights website, which is linked on the left side of this slide, there is an outline what information must be included in a complaint letter. If an individual would rather complete a complaint form than file a letter, they can contact the email address listed on that website to receive a copy of the form. Individuals may send their complaint in via email or traditional mail.
- If an individual is filing a complaint with MA DESE, the Civil Rights website (which is linked on the right hand side of this slide) provides the address to which complaints can be sent. Again, individuals may send their complaint in via email or traditional mail.

- Both of these websites provide resources for individuals with language proficiency limitations, or other disabilities which impact their communication of program information.
- Again, regardless of which format they choose to use, or to which agency they're sending their complaint, the complaint must be filed within 180 days of the alleged discrimination action.



## Handling complaints: conflict resolution

- Individuals have a right to file a complaint
- Refer to your organization's handbook for your written policies on non-discrimination.
- In any conflict get help, especially if there are threats or if violence is possible



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We understand that receiving a complaint can be a stressful or confusing time for a provider. If you have received notice that someone connected to your program feels their Civil Rights have been violated, it is important to know how to respond:

- First, remember that any individual who comes into contact with your CACFP program has a right to file a complaint.
- In any conflict situation, make sure to get help; this is especially important if there are threats made or if violence is possible
- When appropriate, refer participants and their families to your handbook so they may see your written policies on non-discrimination.



06

## Compliance review and Civil Rights training

Now let's discuss about the compliance review process.

## Civil Rights compliance review

- As part of the monitoring and review process, providers will have their compliance with Civil Rights requirements assessed
- Monitors will review program operations and ask questions specific to program operations and policies
- Monitors will also complete an observation during a meal service to collect data for a Sponsor Civil Rights document

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Even without any Civil Rights complaints, providers must have their Civil Rights compliance assessed. This occurs during the regular review process, and is referred to as a compliance review.

FDC Monitors will conduct a Civil Rights compliance review as part of the CACFP program monitoring.

During this compliance assessment, FDC monitors will review program operations and may ask providers questions about program access and policies. In addition, monitors will complete a meal service observation form.

## Civil Rights data collection process

### Data collection process

- Based on visual observation, children should NEVER be asked
- Can open this discussion about data collection requirement, and use of information with parents or guardians during application

### What data are collected

- Ethnicity (you have only one)
  - Hispanic/Latino OR Non-Hispanic/Latino
- Race (you can have multiple)
  - Black/African American
  - American Indian or Alaska Native
  - Native Hawaiian or other pacific islander
  - Asian
  - White

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The process of completing these forms is straight forward; the monitor will be visually observing children during a meal service and determining the ethnicity and race of each child.



07

## Nondiscrimination statement

Now let's talk about the nondiscrimination statement. This statement is from the USDA and is modified regularly to reflect the most current policy and information.

## Current USDA nondiscrimination statement

In accordance with Federal Civil Rights law and U.S. Department of Agriculture (USDA) Civil Rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior Civil Rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

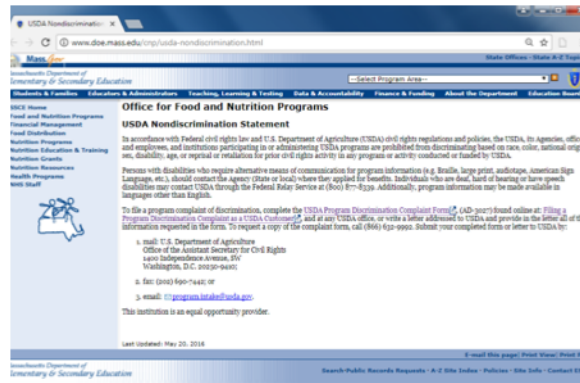
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This is the current USDA nondiscrimination statement; all of your program documents should include this year's statement so that it is considered up-to-date.

## Nondiscrimination statement and your website

- Include the full [USDA nondiscrimination statement](#) on all vital documents and information produced for the public, including program web pages
  - A direct hyperlink to the nondiscrimination statement (not short statement) may be used on web pages
    - [Directly link to the statement](#), not another web page or closed document
- The short nondiscrimination statement **may not** be used on vital documents
  - If there are questions, or you feel an exception is needed please contact your Sponsoring Organization



As a provider, you must link or post the full USDA nondiscrimination statement on all vital documents and information produced for the public, including program home web pages, and subrecipient webpages.  
A direct hyperlink to the full statement may be used on web pages

## Nondiscrimination statement and your program documents

- For all program documents that mention the CACFP:
  - The nondiscrimination statement must be in the same size and font as the smallest font on the document.
  - Formatting of the statement may not be changed.
  - **Exception:** “This institution is an equal opportunity provider.”

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In addition to your website, review all of your organization's documents to identify those that mention CACFP. Include the CACFP Nondiscrimination statement on documents that mention CACFP in at least the same size font as the smallest font on the document.

So, for example, you have a flyer advertising the CACFP program and some of the text is size 18 font and some of the text is size 11 font. You will need to put the nondiscrimination statement on the flyer at a minimum of size 11 font. If you have questions about specific documents, please contact your Sponsoring Agency.

By putting this information on your CACFP documents it gives participants the information on how to file a complaint if they are too intimidated to ask someone in your organization.

Please also note that the formatting of this statement may not be changed but if the full statement does not seem practical to add to a smaller item like a magnet or pen, you can use the shortened version of this statement “This institution is an equal opportunity provider” .



## Building for the Future

- **NEW** Building for the Future Flyer
- This flyer should be posted in homes where families can see
- Building for the Future pamphlets should be included with the enrollment form for new children

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Good nutrition today means a stronger tomorrow!

### Building for the Future with CACFP

This day care receives support from the Child and Adult Care Food Program to serve healthy meals to your children.

**Meals served here must meet USDA's nutrition standards.**

**Questions? Concerns?** Call USDA toll free: 1-866-USDACND (1-866-873-2263)

Learn more about CACFP at USDA's website:

<https://www.fns.usda.gov/>

United States Department of Agriculture  
Food and Nutrition Service FNS-317  
June 2020  
Revised September 2019



Providers should post the Building for the Future flyer (this is the newest version from USDA) in their homes where it is easily accessible to parents and families (such as a bulletin board or parent board).

In addition, the Building for the Future pamphlet should be included with the enrollment form for all new child enrollments.

# THANK YOU



[www.doe.mass.edu](http://www.doe.mass.edu)



75 Pleasant Street, Malden, MA 02148



If you have questions about this presentation, please do not hesitate to reach out to your Sponsoring Organization.

## References

1. Child and Adult Care Food Program (CACFP) Training Resources.  
Office of the State Superintendent of Education, DC.Gov