

Appendix E13. Collection of Race and Ethnicity Data by Visual Observation and Identification in the CACFP and Summer Food Service Program – Policy Rescission

This information is being collected from local government agencies and businesses (institutions) to enable institutions wishing to participate in the Child and Adult Care Food Program (CACFP) to submit applications to the administering agencies, execute agreements with those agencies, and claim the reimbursement to which they are entitled by law. Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the CACFP. This collection is required to obtain or retain benefits and the Food and Nutrition Service (FNS) uses the information collected to conduct reviews that determine whether or not institutions are observing the requirements of the Program established by regulations and statute. In addition, the information collection is necessary for administering agencies to monitor Program operations to ensure compliance with legislative and regulatory requirements. Under the Privacy Act of 1974, any personally identifying information obtained will be kept private to the extent of the law. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The valid OMB control number for this information collection is 0584-0055. The time required to complete this information collection is estimated to average 36 hours per response. This burden consists of the time it takes to review all instructions and handbooks issued by FNS and the Department to clarify or explain existing regulations. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Department of Agriculture, Food and Nutrition Services, Office of Policy Support, 1320 Braddock Place, Alexandria, VA 22314, ATTN: PRA (0584-0055). Do not return a completed form to this address.



Food and
Nutrition
Service

DATE: May 17, 2021
MEMO CODE: CACFP 11-2021, SFSP 07-2021

Braddock
Metro Center

SUBJECT: Collection of Race and Ethnicity Data by Visual
Observation and Identification in the Child and Adult Care
Food Program and Summer Food Service Program – Policy
Rescission

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TO: Regional Directors
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All Regions

State Directors
Child Nutrition Programs
All States

Issuing Agency/Office:	FNS/Child Nutrition Programs
Title of Document:	Collection of Race and Ethnicity Data by Visual Observation and Identification in the Child and Adult Care Food Program and Summer Food Service Program – Policy Rescission
Document ID:	Not Applicable
Z-RIN:	Not Applicable
Date of Issuance:	May 17, 2021
Replaces:	Not Applicable
Summary:	This memorandum states visual observation and identification by Child and Adult Food Care Program (CACFP) institutions and facilities and Summer Food Service Program (SFSP) sponsors is no longer an allowable practice for program operators to use during the collection of race or ethnicity data. USDA will update CACFP and SFSP policy guidance.
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The Food and Nutrition Service (FNS), Child Nutrition Programs (CNP), and the Civil Rights Division (CRD), are issuing this memorandum to provide guidance to State agencies and program operators on removing visual observation and identification as an allowable practice in obtaining race and ethnicity data from Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP) participants.

Background

The U.S. Department of Agriculture (USDA) is responsible for ensuring compliance with Title VI of the Civil Rights Act of 1964 among its federally assisted programs, including CACFP and SFSP. The collection of race and ethnicity data is consistent with the Office of Management and Budget guidance on the subject. These data are used to determine how effectively FNS programs are reaching potential eligible persons and beneficiaries, identify areas where additional outreach is needed, assist in the selection of locations for compliance reviews, and complete reports as required. These requirements are established in 7 CFR 15 and FNS Instruction 113-1, *Civil Rights Compliance and Enforcement – Nutrition Programs and Activities* dated November 8, 2005.

Guidance

FNS Instruction 113-1 requires recipients of Federal financial assistance to ask all program applicants and participants to identify all racial and ethnic categories that apply. Program operators must ensure applicants and participants are made aware that failure to provide racial or ethnic identity information will not impact their eligibility.

FNS Instruction 113-1, Appendix B section F titled Data Collection 2(b) and 3(b) also states, in reference to CACFP and SFSP respectively, “Visual identification may be used by institutions/sponsors to determine a beneficiary’s racial or ethnic category...” Upon further review, USDA determined the only program with a regulatory requirement implementing the [1997 OMB Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity](#), 60 Fed. Reg. 210, 58785 (October 30, 1997) to collect race and ethnicity data via visual observation and identification is the Supplemental Nutrition Assistance Program.

USDA has reviewed this policy and concluded that the use of visual observation and identification by CACFP institutions and facilities and SFSP sponsors is not an appropriate method for collecting race or ethnicity data in the CACFP and SFSP programs. The agency received reports that program participants do not want to have their race or ethnicity determined for them. Moreover, a third party’s observation of an individual’s appearance is not a reliable means to capture how a participant self-identifies their own racial or ethnic identity. Therefore, USDA has determined that visual observation and identification by CACFP institutions and facilities and SFSP sponsors is no longer an allowable practice for CACFP and SFSP program operators to use during the collection of race or ethnicity data.

USDA acknowledges the challenges this change may cause in the collection of demographic data. The preferred method remains self-identification and self-reporting. CACFP institutions and facilities and SFSP sponsors should continue explaining the importance of this data to participants as they encourage them to self-identify and self-report. However, there are alternative means by which CACFP institutions and facilities and SFSP sponsors can obtain race or ethnicity data in the CACFP and SFSP programs,

such as utilizing data from other sources in which the respondent has self-identified race or ethnicity such as school databases.

The CRD will update FNS Instruction 113-1 to remove references to the collection of racial and ethnic identity by visual identification in the CACFP and SFSP. To reflect this change in data collections, CNP will update CACFP and SFSP policy guidance.

State agencies are reminded to distribute this memorandum to Program operators. Program operators should direct questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office. Additionally, State Agencies are encouraged to provide ideas and best practices to the appropriate FNS Regional Civil Rights Officer or Program Liaison.

Original Signed

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