



# Georgia Dept of Early Care and Learning

BRIGHT FROM THE START

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**Brian P. Kemp**  
Governor

**Amy M. Jacobs**  
Commissioner

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## MEMORANDUM

**Subject:** Questions and Answers Related to 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

**Date:** June 13, 2022

**Legal Authority:** CACFP 09-2022; SFSP 05-2022

**Applies To:** All Institutions Participating in the Child and Adult Care Food Program (CACFP) and Sponsors Participating the Summer Food Service Program (SFSP)

**Purpose:** This memorandum provides clarification on questions related to the collection of race or ethnicity data now that visual identification of race and ethnicity is no longer an allowable practice in the Summer Food Service Program (SFSP) and Child and Adult Care Food Program (CACFP).

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The Food and Nutrition Service (FNS), Child Nutrition Programs (CNP), and the Civil Rights Division (CRD), are issuing this memorandum to provide clarification on questions related to *CACFP 11-2021, SFSP 07-2021 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 Memorandum*, published on May 17, 2021.

FNS is currently working to develop technical assistance that will include newly developed example practices and existing best practices already in use by State agencies. State agencies are welcome to develop their own methods to collect the data. FNS encourages State agencies to submit their best practices to their FNS Regional Office as soon as they are able to do so for inclusion in future technical assistance. State agencies are reminded to distribute this memorandum to Program operators.

For questions concerning this memorandum, please contact the Policy Administrator at 404-651-8193.

## Questions and Answers

### I. General

#### 1. What is the purpose of the requirement to collect racial and ethnic data<sup>1</sup>?

The purpose of this requirement is to determine how effectively FNS programs are reaching potential eligible persons and beneficiaries. State agencies and FNS Regional Offices can use the data during program monitoring reviews, applications for Federal financial assistance, and routine Civil Rights compliance reviews to identify areas where additional outreach is needed, determine any barriers to access, and assess the institution's and sponsor's compliance. This data is also used to analyze the impact of policy changes (during the Civil Rights Impact Analysis process) on participants and for investigating program discrimination complaints. Please see [FNS 113-1, \*Civil Rights Compliance and Enforcement – Nutrition Programs and Activities\*](#) for complete information on the collection, maintenance, and use of racial and ethnic data.

#### 2. How does [CACFP 11-2021, SFSP 07-2021, \*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\*](#) affect the collection of race and ethnic data<sup>2</sup>?

The memorandum removes visual identification as an option for collecting participant racial and ethnic data. This means that State agencies and program operators may not collect racial or ethnic data simply by looking at participants. Instead, State agencies and program operators should use methods that are based on self-identification and self-reporting. A best practice for this would be obtaining the information from parents or guardians or adult participants.

#### 3. To what programs does the policy change apply?

The policy change applies only to CACFP and SFSP, as these were the two programs covered by the policy memorandum that was rescinded. It is expected to mainly affect programs where participant enrollment is not required, such as SFSP open sites or walk-in CACFP afterschool programs, when race and ethnic data cannot be obtained on free and reduced-price meals applications<sup>3</sup>.

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<sup>1</sup> The burden associated with the collection of racial and ethnic data is covered under 7 CFR part 225, Summer Food Service Program (SFSP), OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, Child and Adult Care Food Program (CACFP), OMB control number 0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

<sup>2</sup> The burden associated with the requirement to determine children's eligibility for free or reduced price meals is covered under 7 CFR 225.15(f) requirement for households submitting applications (information from which is used to determine the eligibility of individual children) under 7 CFR 225, SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

<sup>3</sup> The burden associated with the requirement to determine children's eligibility for free or reduced price meals is covered under 7 CFR 225.15(f), SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

#### **4. Is this policy change effective immediately?**

Yes, the removal of visual observation and identification as an allowable practice in obtaining racial and ethnic data in the CACFP and SFSP is effective immediately. As of May 17, 2021, the date that CACFP 11-2021, SFSP 07-2021 was published, visual observation and identification is no longer an allowable practice for CACFP and SFSP operators and State agencies to use during the collection of racial or ethnic data.

#### **5. Is there a grace period during which program operators that have used visual identification in the past can develop other data collection methods?**

Yes. While the requirement to end the practice of visual identification was effective as of May 17, 2021, FNS is providing a grace period for CACFP and SFSP program operators and State agencies to develop other data collection methods.<sup>4</sup> FNS recognizes that it will take some time for State agencies and program operators to develop methods and gather data from alternative sources, as discussed below, such as utilizing data from alternative sources in which the respondent has self-identified race or ethnicity, including school databases, when the respondent does not self-identify. As a result, there will be a grace period to develop methods to gather racial and ethnic data not provided via self-identification from alternative sources, as follows:

Grace period (applies to both SFSP and CACFP): May 17, 2021, through December 31, 2022.

As noted above, State agencies and program operators must end the practice of visual identification immediately. During the grace period, program operators will not receive a finding of non-compliance during reviews<sup>5</sup>; however, it will be noted as an observation and may become a finding if alternative means are not implemented before the end of the established grace period. By January 1, 2023, program operators must have alternative means to capture the data or they may be issued a finding of non-compliance on their next review. However, after the end of the grace period, program operators may continue to report aggregate data as a substitute for individual data in instances in which the program operator attempts to collect the data, but no participants provide the information.

#### **6. What parameters has FNS established for collecting data from parents or guardians?**

Obtaining data from parents or guardians is the preferred method of data collection, as parents or guardians can provide accurate information. Adult participants and parents

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<sup>5</sup> The burden associated with the requirement of program review is covered under 7 CFR 225, SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

and guardians may be asked to identify the racial or ethnic group of the participant only after it has been explained, and they understand, that providing the information is to ensure compliance with USDA nondiscrimination requirements only and that failure to report the information will not impact the participant's eligibility for meals. Program operators of sites that do not require enrollment (non-enrolled sites) should choose data collection methods that are easy for adult participants or parents and guardians to use. For the purposes of this requirement, adult participants and parents and guardians of children attending non-enrolled sites are not required to provide the participant's name. Additionally, adult participants and parents and guardians must not be required to fill out a free or reduced-price meal application for non-enrolled program<sup>6</sup>.

**7. May program operators of sites that do not require enrollment obtain racial and ethnic data verbally by asking participants or their parents or guardians?**

FNS recognizes that options for obtaining racial and ethnic data at sites that do not require enrollment (non-enrolled sites) are limited. Requesting data verbally is allowable<sup>7</sup>. However, FNS understands that requesting information verbally may be uncomfortable for staff and for participants. Respect for individual dignity should guide the processes and methods for collecting data on race and ethnicity; ideally, respondent self-identification should be facilitated to the greatest extent possible. Program applicants and participants should be encouraged to provide the information by explaining the use of the data is to ensure compliance with USDA nondiscrimination requirements only and that sharing the information is voluntary and will not impact a participant's eligibility for meals. FNS discourages asking a child to self-identify their race and ethnicity, as this practice may be confusing to young children. If verbal identification is used, FNS strongly recommends only asking adults.

**8. How often must data for sites that do not require enrollment be collected?**

[FNS 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities](#) requires program operators to collect data yearly<sup>8</sup>. This applies to both enrolled and non-enrolled programs.

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<sup>6</sup> The burden associated with the requirement to determine children's eligibility for free or reduced price meals is covered under 7 CFR 225.15(f) requirement for households submitting applications (information from which is used to determine the eligibility of individual children) under 7 CFR 225, SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

<sup>7</sup> The burden associated with the collection of racial and ethnic data is covered under 7 CFR part 225, SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control number 0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

<sup>8</sup> The burden associated with the collection of racial and ethnic data is covered under 7 CFR part 225, SFSP, OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control number 0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

**9. What should program operators do if they are unable to obtain racial and ethnic data for all participants? What if this causes a mismatch between the data and the number of participants at a meal service site?**

Providing racial and ethnic data is voluntary. If a program operator is unable to collect a participant's information, their response may be marked "unknown." For that reason, FNS does not expect that the number of respondents will equal the number of children at a meal service site. However, FNS does expect program operators to continue to try to capture the data.

**10. The memorandum indicated that school databases may be used as an alternative source of racial or ethnic data. How may school databases be used?**

Typically, program operators are required to collect both aggregate data on potential participants (the number of persons eligible for meal benefits in the service area) and individual data on actual participants. When sites do not require enrollment forms and data for actual participants cannot be obtained via self-reporting, aggregate data on potential participants may be used. Aggregate data must be specific to the service area of the meal service site. In this way, program operators may use aggregate school enrollment data to satisfy the data collection requirements for both potential and actual participants during and after the grace period, when data on actual participants cannot be obtained via self-reporting<sup>9</sup>.

**11. What are some sources other than school data that sites that do not require enrollment (non-enrolled sites) can use to obtain aggregate racial and ethnic data during the grace period?**

Non-enrolled sites may use Census' American Community Survey (ACS)<sup>10</sup> at [www.census.gov/programs-surveys/acs/](http://www.census.gov/programs-surveys/acs/), which [provides racial and ethnic data by multiple types of geographic areas, including by census tract and census block group. The ACS includes an age category of 0 to 5 years of age for racial and ethnic data and data for adults. The ACS also provides data for very small locations, like housing units, through the Public Use Microdata Sample files at www.census.gov/programs-surveys/acs/microdata.html. Sites may also wish to use data](http://www.census.gov/programs-surveys/acs/) from the National Center for Education Statistics Common Core of Data database at <https://nces.ed.gov/ccd/schoolsearch/>, which [provides data by school.](https://nces.ed.gov/ccd/schoolsearch/)

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<sup>9</sup> The burden associated with the collection of racial and ethnic data is covered under 7 CFR part 225, Summer Food Service Program (SFSP), OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.

<sup>10</sup> The burden associated with the American Community Survey is associated with OMB control #0607-0810, expiration date June 30, 2022.

**12. May sites that do not require enrollment, and are operated by a school sponsor, utilize school enrollment data to obtain racial or ethnic data for individual children?**

Yes. Non-enrolled sites operated by a school sponsor, such as CACFP at-risk afterschool or SFSP open sites, may use school enrollment data to obtain the racial or ethnic data for individual children.

**13. Can you provide a summary of data collection methods that may be used for sites that do not require enrollment?**

FNS cannot provide an exhaustive summary of data collection methods that may be used; however, to help facilitate this transition FNS has identified methods, below, which State agencies and program operators may wish to consider:

*Aggregate Data:*

(Program operators must obtain these data at least once for each site during the operational period each year and may use them as a substitute for individual data during the grace period or after the grace period when the program operator attempts to collect the data, but no participants provide the information <sup>11</sup>.)

- Use the Census' American Community Survey at [www.census.gov/programs-surveys/acs/](http://www.census.gov/programs-surveys/acs/) to obtain localized aggregate data on the population to be served.
- Use racial and ethnic data obtained from the National Center for Education Statistics Common Core of Data database at <https://nces.ed.gov/ccd/schoolsearch/> to search the specific school on the population to be served.
- Use aggregate school enrollment data to obtain localized data on the population to be served for sites that are operated at the same school or at a site located in the area served by a school.

*Individual Data:*

- Use individual school enrollment data to obtain racial and ethnic data for individual children. SFSP sites that are able to obtain children's names and have access to school enrollment records may use them to obtain racial and ethnic data.
- Ask parents and guardians to provide their children's race and ethnicity. Providing the information is optional and when the parent or guardian does not choose to provide the information, their answer will be recorded as "unknown." Data should be obtained at least once for each site during the operational period each year.

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<sup>11</sup> The burden associated with the collection of racial and ethnic data is covered under 7 CFR part 225, Summer Food Service Program (SFSP), OMB control #0584-0280, expiration date December 31, 2022, and was included in the reinstatement request to 7 CFR part 226, CACFP, OMB control #0584-0055, expiration date February 29, 2020. The reinstatement request was submitted to OMB on March 25, 2022.