



Office for Prekindergarten through Grade 12 Education  
Child Nutrition Program Administration  
89 Washington Avenue 375 EBA, Albany, NY 12234-0055  
Tel (518) 473-8781 Fax (518) 473-0018  
Web Address [www.nysed.gov/cn/cnms.htm](http://www.nysed.gov/cn/cnms.htm)

**To: School Food Authorities and Summer Food Service Program Sponsors**

**From: Paula Tyner-Doyle, Coordinator**

**Date: April 2015**

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

This memorandum explains the prohibition on 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 This memorandum supersedes previously rescinded guidance SP 32-2012, CACFP 16-2012, as well as SFSP 12-2012, "*Prohibition of Separation by Gender during Child Nutrition Program Meal Service*," originally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), organizations, and institutions impacted by this guidance are those participating in any of the following Child Nutrition Programs: National School Lunch Program; School Breakfast Program; Fresh Fruit and Vegetable Program; Special Milk Program; Child and Adult Care Food Program; and Summer Food Service Program. These include any schools, child or adult care institutions and facilities, camps (including residential facilities), and other sites, as defined in 7 CFR Sections 210.2, 215.2, 225.2, and 226.2, that are providing meal service as a Program activity.

### **Separation by Gender During Meal Service Prohibited**

In general, SFAs, institutions, and organizations 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 Department of Agriculture (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:*

The Food and Nutrition Service (FNS) recognizes religious exemptions granted by the 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).

When requesting an exemption, please complete the attached form and specify which of the above listed reasons apply and why separation by gender is necessary. Please submit the exemption request form to the Child Nutrition Administration office by email at [cn@nysed.gov](mailto:cn@nysed.gov) or by fax at 518-473-0018.

The above listed exemptions are the only acceptable bases 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.



**THE STATE EDUCATION DEPARTMENT** / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY  
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 (518) 473-8781 fax (518) 473-0018 [www.nysed.gov/cn/cnms.htm](http://www.nysed.gov/cn/cnms.htm)

**Separation by Gender during Child Nutrition Program Meal Service Exemption Request**

In general, SFAs, institutions, and organizations 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 Department of Agriculture (USDA) programs in 7 CFR Parts 15, 15a, and 15b. Federal law prohibits discrimination based on gender at any educational institution receiving Federal assistance.

The New York State Education Department (SED) may approve exemptions allowing separation by gender during a Child Nutrition Program meal service. To request an exemption, please indicate which of the following reasons apply and why separation by gender is necessary:

- Meal service takes place at religious institutions operating under the dictates of the religion with which they are affiliated.
- Meal service takes place at juvenile correctional facilities where combining members of the opposite gender would present a potential safety risk.
- Meal service takes place at facilities that fully separate by gender as part of their normal operations (for example, gender-separated summer camps).

Why is separation by gender necessary?

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Requesting Exemption from \_\_\_\_\_ to \_\_\_\_\_  
   Begin Date    End Date

SFA/Sponsor Name: \_\_\_\_\_ LEA Code: \_\_\_\_\_  
 RA/Site Name: \_\_\_\_\_ LEA Code: \_\_\_\_\_  
 RA/Site Name: \_\_\_\_\_ LEA Code: \_\_\_\_\_  
 RA/Site Name: \_\_\_\_\_ LEA Code: \_\_\_\_\_

Child Nutrition Program Operator:

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|            |       |           |
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| Print Name | Title | Signature |
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| NYSED Approval: _____ Date: _____<br>NYSED Disapproval: _____ Date: _____ |
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