

NATIONAL SCHOOL LUNCH PROGRAM SCHOOL BREAKFAST PROGRAM

INTRODUCTION

This introduction will give local educational agencies (LEAs) an overview of the National School Lunch Program (NSLP) and School Breakfast Program (SBP). Detailed information regarding these programs is in the Quick Reference. The Special Milk Program (SMP), After School Snack Program (ASSP), Fresh Fruit and Vegetable Program (FFVP), Summer Food Service Program (SFSP), and Seamless Summer Option of the National School Lunch Program (SSO) are briefly described in the Quick Reference, and more information regarding them can be found in their respective manuals.

Eligible Local Educational Agencies

Public and private schools that accept full administrative and financial responsibility are eligible to participate in the programs. All public schools are eligible to participate. Private schools must qualify according to USOE rules and have nonprofit status under Section 501(c)(3) of the Internal Revenue Code of 1986.

Meal Requirements

School meals must follow the requirements described in the regulations for menu planning (7 CFR 210.10). (See *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.)

Breakfast Requirements. School breakfasts must follow the requirement described in the regulations for menu planning (7 CFR 220.8). (See *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.)

Free and Reduced-Price Benefits

All children enrolled in the school are eligible to participate in the program and to apply for free and reduced-price benefits. Both free and reduced-price meals must be offered. No child may be denied benefits if he or she has submitted a properly completed, valid application that has been approved by the LEA or has been directly certified as eligible as a recipient of the Supplemental Nutrition Assistance Program (SNAP), or assistance from the Family Employment Program (FEP) or the Food Distribution Program on Indian Reservations (FDPIR).

In school settings, there is no age restriction for participation as long as students are working toward graduation or a General Educational Development (GED) certificate, not

just upgrading skills. Residential Child Care Institutions (RCCIs) are limited to enrollees age 21 or younger. Participation in the SMP is limited to those under age 19. In a case where mentally or physically disabled students are participating in a school program, there is no age limit.

Utah has a prototype Free and Reduced-Price Meal Policy, which is the model for the document required for all LEAs. This policy states the institution's administrative procedures and duties in offering free and reduced-price meals or free milk to children. If LEAs do not adopt the prototype, they must design their own policy statement for USOE approval.

Schools must ensure that there is no overt identification of children who receive free or reduced-price meals or milk in collecting applications or payments or in serving meals or milk. There can be no physical segregation of any child, or any other discrimination, because of inability to pay full price for meals or milk. The names of children eligible to receive free or reduced-price meals or free milk shall not be published, posted, or announced, and these children cannot be overtly identified by special tokens, tickets, or other means. Eligible children shall not be required to work for meals or milk, use a separate service area, go through a separate serving line, enter the service area through a separate entrance or at a different time, or be served meals or milk that vary from what is sold to children paying the full price. Access to the information provided by households on their applications or through direct certification is limited to certain local, state, and federal officials.

LEAs cannot charge students who receive reduced-price meals more than 40 cents for lunch or 30 cents for breakfast, and the charge must always be less than the full price. The reduced price may be as low as zero for the student; however, the reimbursement rate remains the same. The reduced-price meal charge must be the same in high schools and elementary schools to ensure that all children from the same household receive equal benefits. (The charge for a full-price meal may be different in secondary and elementary schools.)

By November 15 of each year, LEAs must verify the eligibility information of a sample of approved households whose applications were on file as of October 1. Verification is not required for households whose eligibility has been directly certified by state or local agencies.

Information to help determine student eligibility for free and reduced-price meals and to conduct verification is found in the *Eligibility Manual for School Meals* (FNS-274), available online at

<http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>.

Meal Accountability

Schools must maintain auditable records of meals and milk claimed for reimbursement. Records must include point-of-service and kitchen participation counts and complete meal production information.

Meal Count. An accurate meal count by eligibility category must be taken daily at the point of service. To show that the system is accurate, records must contain two types of meal counts by different individuals and methods. These are usually the point-of-service count (by eligibility category) and the kitchen count (by food, plates, or trays). The point-of-service count must follow the procedures detailed in the LEA's site information on CNPweb.

Meal Production Records. Records must show meal compliance. Examples of Production Records can be found in *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.

Competitive Food Service

Competitive food means any food sold which is not part of the reimbursable meal. Prohibited competitive foods are called "foods of minimal nutritional value" and may not be sold in any meal service or dining area during the breakfast or lunch periods. Competitive foods that are not foods of minimum nutritional value may be sold during meal periods as long as income from the sale accrues to the nonprofit food service, the school, or student organizations approved by the school.

Meal Service

Reimbursable Meals. A reimbursable meal is one (a) served to children enrolled in the educational program of the school who are in attendance at the time of the meal service (including kindergarten or Head Start children), (b) claimed by an approved eligibility category, and (c) meeting the minimum meal pattern requirements.

Children enrolled in any school within the LEA but visiting in another school may be claimed as though they were in their own school. Children visiting from a school in another LEA may also be claimed at the paid rate. Eligible children's meals may be claimed in free or reduced-price categories if copies of the children's free and reduced-price applications are filed with the host LEA/school.

Nonreimbursable Meals. Reimbursement is available only for approved children's meals which meet program requirements. No other meals or food items are reimbursable.

Adult meals and meals served to children who are not enrolled in the school are not eligible for federal or state reimbursement, and income from such meals must go to the program. Meals served to adults directly involved in the administration and operation of the program may, at the option of the LEA, be furnished without charge. In this case,

meal cost is part of program operation and supported by revenues to the program. The cost of meals served to adults not directly involved in the operation of the food service program may not be financed by children's payments or state or federal reimbursements. Costs must be offset by adult payments or revenue from other sources. The price must be enough to cover the full cost of the meal, plus the value of any USDA Foods used. USDA Foods may be used in adult meals only when the same foods are included in reimbursable children's meals.

It is the intent of the program to plan and prepare one lunch and/or breakfast per child per day. Second meals may not be claimed for reimbursement. Schools are cautioned not to plan and prepare second meals for children unless they are prepared to absorb the cost.

Exceptions to the Meal-Pattern Requirements. The meal pattern requirements may be varied only for medical exceptions for individual dietary problems, special exceptions granted by the Food and Nutrition Service (FNS) for experimental study, emergencies as a result of disaster recognized by the FNS, and exceptions for religious reasons. (See the Exception to the Meal Pattern form, available online at <http://www.schools.utah.gov/cnp/NSLP/default.asp>.)

Records

All accounts and records for the NSLP, SBP, ASSP, FFVP, and SMP must be available to the USOE and/or the USDA for audit or review at any reasonable time and place. Records must be retained for three years after the end of the fiscal year to which they apply unless an audit finding makes it necessary to hold them longer.

Financial Administration Requirements

All food service programs must operate on a nonprofit basis. LEAs must maintain income and expense records to document the nonprofit operation of their food service programs. All income to the program must be used to reduce the cost to the paying child, improve the quality of the food, purchase supplies, and maintain services and equipment used in storing, preparing, or serving food and/or milk to children.

Claims and Reimbursement

Claim for Reimbursement. The CNP Claim for Reimbursement form must be submitted to the USOE on or before the fourth working day of the month following the month being claimed. Reimbursement is paid for the number of meals claimed by category.

Federal Funds. General cash assistance (Section 4) is disbursed for all eligible school meals. In addition, special assistance (Section 11) funds are paid for meals served free or at a reduced price to eligible children.

State Funds. Utah law provides a tax on the sale of wine and distilled liquor to administer the school lunch program in public school districts. Funds are disbursed according to the number of lunches claimed in each district. No state funds are available for the SBP or SMP.

Severe Need Reimbursement. Schools may receive severe need payments for free and reduced-price breakfasts when 40 percent or more of the lunches at the school in the second preceding year were served to students qualifying for free or reduced-price meals. These payments are in addition to the regular reimbursement. An additional two cents per lunch is available to LEAs which served 60 percent or more free or reduced-price lunches district-wide during the second preceding year.

Civil Rights Compliance

A variety of laws protects the civil rights of various categories of people and prohibits discrimination against them. These laws require that federal assistance programs be operated so no one is discriminated against on the basis of race, color, national origin, sex, age, or disability. The LEA must develop and retain a description of its civil rights compliance program, which must contain at least the following elements.

Public Notification Program. All forms of communication and printed program information, including the free and reduced-price notification letters and public press releases, must include the following statement:

In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.

If the full statement cannot be accommodated in the material, at a minimum, the following statement must be included in print no smaller than the main text:

This institution is an equal opportunity provider.

At all food service sites the nondiscrimination poster developed by the USDA, or an alternative approved by the FNS, must be displayed in a prominent place, visible to the public.

Data Collection and Reporting System. The LEA must develop a method for collecting and reporting data on the number of children applying for free and reduced-price meals by racial/ethnic category. The data may be collected by a school official through

observation or personal knowledge, or by voluntary self-identification by the applicant on the free and reduced-price application form or from student enrollment records.

Compliance Reviews. The USOE will conduct civil rights compliance reviews before awarding funding and as part of the ongoing monitoring process. LEAs must conduct similar compliance reviews in sites they sponsor.

Complaint Handling Procedures. Civil rights complaints are written or verbal allegations of discrimination based on race, color, national origin, sex, age, or disability. Any person claiming discrimination has a right to file a complaint within 180 days of the alleged discrimination. All complaints, whether written or verbal, must be accepted by the LEA and forwarded to the USOE. An anonymous complaint must be handled the same way as any other.

Resolution of Noncompliance Issues. Probable noncompliance is a factual finding, based on a review or other monitoring process, that certain civil rights requirements are not being met by an individual or agency. Once probable noncompliance is found, steps must be taken immediately to obtain voluntary compliance. If corrective action has not been completed within 60 days of the finding, a noncompliance report must be submitted through the USDA Regional Office to the Civil Rights Division (or through the USOE if locally identified). Continued noncompliance may result in legal action.

Reviews by the State Education Agency

The USOE visits each LEA to review and assess local program operations and provide technical assistance and training.

Coordinated Review Effort (CRE). The CRE is a federally required monitoring system. Critical areas of the review include the LEA's certifying benefit eligibility, counting, claiming, and consolidating process and compliance with meal components. Violation of performance standards requires that an acceptable corrective action plan be submitted to the USOE, and may include action to recover funds. A CRE is conducted at least once every five years.

School Meals Initiative (SMI) Monitoring. SMI monitoring assesses whether meals comply with the "Dietary Guidelines for Americans" through nutrient analysis using approved USDA procedures. Specific goals for improvement are recorded as part of the monitoring visits. SMI monitoring is conducted at least once every five years.

State Technical Assistance Review (STAR). Technical assistance reviews may be conducted prior to the SMI and CRE reviews (STAR-S and STAR-C). They may also include monitoring specific programs such as the SBP, or the SMP.

Additional Administrative Review-Coordinated Review Effort (AAR-CRE). LEAs that have a high level of non-response to verification requests, are operating new provision

two or three sites, and/or are claiming a high number of free or reduced-price eligible students, are subject to an additional review.

QUICK REFERENCE

UTAH SCHOOL FOOD PROGRAMS

A

A La Carte Sales

A la carte sales cover those food items sold in addition to the unitized, reimbursable meal during regular meal service. If a school provides an a la carte service, any combination of food which includes the required elements of the reimbursable school meal may be sold at the unit price and claimed for reimbursement. If, under offer versus serve, a student chooses less than the required number of food components, a la carte prices should be charged. Also, if additional foods which are not planned and merchandised as part of the reimbursable meal are offered (see **Competitive Food Service**), they must be sold at the a la carte price. A la carte prices should cover the total cost of each item. The total charges for individual menu items in any combination should never be less than the price for a reimbursable meal as a unit.

A la carte records must be maintained separately. It is necessary to show:

- The determination of the sale price (including cost to produce).
- The tracking of food, including removal from inventory (separate from reimbursable meals).
- The number of items prepared and sold daily.
- The amount of money collected.

Adult Meals

Adult meals are not eligible for federal or state reimbursement, and income from such meals must accrue to the food service program. For economy, and to avoid student payments being used to reduce the price to adults, adults should be offered the same menu(s) as children.

Program Adults. Meals served to adults directly involved in the administration and operation of the program may, at the discretion of the LEA, be furnished without charge. In this case, meal cost may be attributed to program operation and supported by revenues to the program. The determination of which individuals to include and what portion of their services to attribute to program operation is left to state and local officials.

Nonprogram Adults. The cost of meals served to adults not directly involved in the operation of the food service program may not be financed by children's payments, state or federal reimbursements, or USDA Foods. Costs must be offset by adult payments or revenue from other sources.

While school and district staff and official visitors may participate in the meal service, it is clearly not the intent of the programs to include adults in food service. Nonprogram

adults eligible to buy a school lunch include district and school employees, official visitors in the school during lunchtime, and parents who are at school on official business or invited to come during special activities such as National School Lunch Week.

Nonprogram adults who may not have school lunch include regular delivery or pick-up personnel; friends, spouses, or other relatives of school or district employees (unless they are in the school on official business); and construction workers.

Adult Prices. The price of adult meals is set by the district, must be sufficient to cover the full cost of the meal, and must equal or exceed the highest child's reimbursement, including the value of any USDA-donated foods and state support. Adult portions should be specific and consistent throughout the district. The regular price entitles an adult to a portion planned for a high school student. If larger or double portions are served, the price must increase proportionately. Payment must be received for all food consumed. Leftover food should not be offered to adults without proper payment, and records must be maintained.

All adults in a district should pay the same price for the full meal. If special services are provided to adults the additional cost should be recovered. If adults wish to choose only parts of the lunch offered to children, the charges should cover the full cost of the selected items, including labor and the value of any USDA Foods.

Income is anticipated from all meals served to nonprogram adults, and auditable records must be available. Any reduction of price to adults must be made up from other district funds.

After School Snack Program (ASSP)

The National School Lunch Program (NSLP) offers cash reimbursement to help schools serve snacks to children in after-school activities aimed at promoting the health and well being of children and youth in our communities. A school must provide children with regularly scheduled activities in an organized, structured and supervised environment, and include educational or enrichment activities (e.g., mentoring or tutoring programs). Competitive interscholastic sports teams are not an eligible after-school program. The programs must meet state or local licensing requirements, if any, and state or local health and safety standards. All programs that meet the eligibility requirements that participate in NSLP may receive USDA reimbursement for after school snacks.

In order to be reimbursed, the snacks must contain at least two different components of the following four: a serving of fluid milk; a serving of meat or meat alternate; a serving of vegetable(s) or fruit(s) or full-strength vegetable or fruit juice; a serving of whole grain or enriched bread or bread alternate or cereal.

An after-school care program site is "area eligible" if it is located at a school or in the attendance area of a school where at least 50 percent of the enrolled children are eligible

for free or reduced-price meals. For example, if a high school with less than 50 percent free or reduced-price school enrollment is located in the attendance area of a middle school that has 50 percent or more of the enrolled children eligible for free or reduced-price meals, then the after-school care program located in the high school would be area eligible.

Snacks served in after-school care programs that are “area eligible” will be reimbursed at the free rate, regardless of an individual student’s eligibility for free or reduced-price lunches. Snacks served in after-school care programs that are not area eligible will be reimbursed at the free, reduced-price or paid rate depending on each individual’s eligibility for free or reduced-price meals based on Income Eligibility Forms (IEFs). Reimbursement rates are announced each year in July. (See *ASSP Administrative Manual*, available online at <http://www.schools.utah.gov/cnp/Files/ASSP/ASSP%20Manual.pdf>.)

Age for Participation in School Food Programs

There is no age restriction for participation in meal programs as long as students are enrolled in day school and working toward graduation or a GED (not just upgrading skills). Participation in the SMP is limited to those under age 19. In a case where mentally or physically disabled students are participating in a school program, there is no age limit. In RCCIs, eligible children must be 21 years of age or less.

Alternate Protein Products (APP)

The term “alternate protein product” (APP) is the name used by FNS to identify products meeting requirements set forth in Appendix A of the NSLP, SBP, SFSP and CACFP regulations. An APP is required to be processed so that some portion of the non-protein constituents of the food is removed, to have a biological quality at least 80 percent that of casein, and to contain at least 18 percent protein by weight when fully hydrated or formulated. These requirements only pertain to LEAs using the Food-Based menu planning systems. If the LEA uses a Food-Based menu planning system and wishes to include APP in the menus, they should contact the SA for further information regarding their use.

Appeal Procedures for Local Education Agencies

The SA has adopted a fair hearing procedure by which an LEA can appeal a decision made by the USOE to deny all or a part of claim or to withhold payment due to findings of a CRE review or CRE follow-up review.

Before initiating the appeal procedure the State Agency (SA), the LEA’s supervisor/director or other authorized officials may request a conference to provide an opportunity to discuss the situation, present information, obtain an explanation of relevant data, and clarify the decision rendered. Such a conference will not in any way prejudice nor diminish the right to a fair hearing.

The following procedures will apply if an appeal is pursued:

- The LEA will be advised in writing of the grounds on which the SA has based its action. The notice of action will be sent by certified mail, return receipt requested, and will also include a full description of the LEA's rights and responsibilities.
- The written request for review must be filed not later than 15 calendar days from the date the appellant receives the notice of action, and the SA will acknowledge the receipt of the request for appeal within 10 calendar days.
- The appellant may refute the charges contained in the notice of action. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant receives the notice of action.
- The appellant may retain legal counsel or be represented by another person. A hearing will be held by the review official in addition to, or in lieu of, a review of the written information submitted only if the appellant requests one in the letter. Failure of the appellant or a representative to appear at a scheduled hearing will constitute waiver of the right to a personal appearance before the review official unless the official agrees to reschedule the hearing.
- If a hearing has been requested the appellant will be provided with at least 10 calendar days' advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing.
- Any information on which the SA's action was based will be available to the appellant for inspection from the date of receipt of the request for review.
- The review official must be independent and impartial and not accountable to any person authorized to make decisions subject to appeal under these provisions.
- The review official will make a determination based on information provided by the SA, the appellant, and program regulations. The review official will inform the SA and the appellant of the determination within 60 calendar days of the SA's receipt of the review request.
- The SA's action will remain in effect during the appeal procedure.
- The decision by the state review official is the final administrative determination afforded to the appellant.

B

Breakfast Program Nonparticipation Review

Utah law requires that local school boards review, at least once every three years, the reasons an elementary school does not participate in the SBP. If the school board determines that there are valid reasons for the school's nonparticipation, no further action is taken. Reasons for nonparticipation may include a recommendation from the school community council or a similar group of parents and school employees that the school not be part of the program. Otherwise, an SBP must be initiated.

After two nonparticipation reviews a local school board may, by majority vote, waive any further scrutiny of a particular school. A waiver of the review process does not prohibit subsequent reconsideration by the local school board of the school's nonparticipation in the SBP. The requirements of this Utah law will be nullified if the federal government terminates the entitlement status of the SBP.

C

Catering

Catering is a situation when food is made available by the LEA for a single event or special purpose. Catering to civic clubs or associations may be provided according to the policy of the district, but care should be taken to avoid competition with local businesses. Charges must cover all costs, not just the regular adult price of the food to employees or authorized visitors on business at school. It is necessary to keep a record of such meals. The appropriate amount of state and/or city sales taxes must also be collected.

Preparing meals which are served to student groups outside of lunchtime is bound by the same restrictions that govern catering to civic clubs or associations. No reimbursement may be claimed, and the full cost of preparing the meal must be covered by charges to the customer.

Catering may include meals prepared on a sustained basis by a school which are not claimed for reimbursement. These meals may be prepared for senior citizens, Head Start programs, private schools, or CACFP participants. A clear, auditable trail is necessary to track costs which must be separated from the NSLP/SBP. It is recommended that a separate Food Production Record form be used.

Charter Schools

Charter schools may operate any of the programs as independent LEAs. Another LEA may also sponsor a charter school. By state law charter schools are deemed to be public schools.

Children with Disabilities

See *Accommodating Children with Special Dietary Needs in the School Nutrition Programs* available online at http://www.fns.usda.gov/cnd/guidance/special_dietary_needs.pdf.

Children's Health Insurance Program (CHIP)

See *Eligibility Manual for School Meals* available online at <http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>.

Civil Rights Complaint Handling Procedures

Civil rights complaints are written or verbal allegations of discrimination based on race, color, national origin, age, sex, or disability. Any person claiming discrimination has a right to file a complaint within 180 days of the alleged discrimination. A civil rights complaint based on race, color, national origin, or age may be received at the individual school level, but it must be forwarded through the SA to the USDA Regional Office. The regional office then forwards the complaint to the Civil Rights Division. Complaints of discrimination based on sex or disability must be forwarded to the SA for investigation and disposition.

All complaints, whether written or verbal, must be accepted by the LEA and forwarded to the SA. An anonymous complaint should be handled the same way as any other. Complaint forms may be developed but their use cannot be required. If the complainant makes the allegations verbally or in a telephone conversation and is reluctant or refuses to put them in writing, the person who handles the complaint must write up the description.

There must be enough information to identify the agency or individual toward which the complaint is directed and indicate the possibility of a violation. Every effort should be made to obtain at least the following information:

- Name, address and telephone number or other means of contacting the complainant.
- The specific location and name of the organization delivering the program service or benefit.
- The nature of the incident(s) or action(s) that led the complainant to feel there was discrimination.
- The basis on which the complainant feels discrimination occurred (race, color, national origin, age, sex, or disability).
- The names, titles, and addresses of people who may have knowledge of the discriminatory action(s).
- The date(s) when the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

Civil Rights Compliance

A variety of laws protect the civil rights of various categories of people and prevents discrimination against them. These laws require that federal assistance programs be operated so no one is discriminated against on the basis of specific characteristics.

The pertinent laws include the Civil Rights Act of 1964, Title VI (discrimination because of race, color, or national origin); the Education Amendments of 1972, Title IX (discrimination based on sex); the Rehabilitation Act of 1973, Section 504, and the Americans with Disabilities Act of 1994 (discrimination because of disability); and the Age Discrimination Act of 1975 (discrimination on the basis of age).

The LEA must retain a description of its civil rights compliance program, which must contain at least these elements:

- Public notification program.
- Data collection and reporting system.
- Compliance reviews.
- Complaint handling procedures.
- Resolution of noncompliance issues.

Civil Rights Compliance Reviews

The SA will conduct civil rights compliance reviews before awarding funding as part of the ongoing monitoring process required by program regulations and on other occasions as necessary. LEAs should conduct similar compliance reviews in sites they sponsor (see the LEA Site Monitoring forms, available online at <http://www.schools.utah.gov/cnp/NSLP/default.asp>). There are several types of compliance reviews.

Pre-Award Compliance Review. The SA and LEA will perform a pre-award desk review of previously unfunded program applicants to determine compliance with the civil rights laws. It may be particularly important for a LEA to conduct this review of any institution with which it expects to contract for preparation, delivery, or service of meals. If an institution is found to be out of compliance the SA or LEA may not enter into the proposed contract. Information required to be submitted as part of the application includes:

- Copies of free and reduced-price meal policy statements, letters to parents, public press releases, and any other materials used to publicize program availability and nondiscrimination requirements.
- Estimated data on the racial/ethnic makeup of the applicant organization's or site's program service area and enrollment.
- A description of membership requirements for admission to the institution, if applicable.
- The names of other federal agencies providing assistance to the organization and whether the applicant has ever been found out of compliance by those agencies.

Local Compliance Review. LEAs must ensure that schools in which they operate programs meet civil rights requirements. Reviews must be conducted as part of ongoing management and administration. At a minimum, local reviews will examine whether:

- Communication to the public and potential beneficiaries includes the nondiscrimination statement and information on where a complaint can be filed.
- Any complaints received have been forwarded to the SA.
- The nondiscrimination poster is displayed in a prominent place in the food service area.
- Program information is made available to the public, and how that occurs.
- There is a need for program information in languages other than English, and how the need is being met.
- Data are maintained on approved and denied free and reduced-price applications by racial/ethnic category.

Regular Compliance Review. Within one year following application approval and regularly thereafter, the SA will include civil rights compliance reviews in its continuing monitoring of all LEAs. When a review of an LEA is performed, the questions listed below will be investigated as a minimum. LEAs must do similar compliance reviews in sites they sponsor.

- Are approved and denied free and reduced-price applications maintained on file?
- Do denied free and reduced-price applications come disproportionately from minorities?
- Is there a need for bilingual material or staff? If the need exists, how is it being addressed?
- What procedures are used to determine and process civil rights complaints?
- Do admission procedures restrict enrollment of minorities or other protected classes?
- Is the USDA poster (or an FNS approved alternate) prominently displayed?
- Do free and reduced-price application letters provided to parents or guardians of participants and potential participants contain the nondiscrimination statement and the procedure for filing a complaint?

If noncompliance is found in any area the LEA must take corrective action. Contact the SA if compliance is not met.

Special Compliance Review. On occasion, special compliance reviews will be necessary. Such reviews will be conducted when:

- Available information indicates a need for in-depth examination of program activities or procedures at a specific LEA or site.
- Statistical data indicate that a particular minority or other protected group is not participating in or benefitting from the program to an extent indicated by the potentially eligible population.
- Reports of noncompliance made by other federal agencies need to be substantiated.
- Follow-up on findings of previous special reviews is needed to obtain additional information.
- Patterns of complaints of discrimination have developed.

Special compliance reviews may be conducted by either state or federal agency personnel or jointly, and they may be unannounced.

Civil Rights Compliance Data Collection and Reporting

The LEA must develop a method for collecting and reporting data on the actual number of children applying for free and reduced-price meals by racial/ethnic category. The data may be collected by a school official through observation or personal knowledge or by voluntary self-identification by the applicant on the free and reduced-price application form. The information must be kept on file for three years after the current year. Procedures must be established to ensure that the information is made available only to authorized state and federal officials during reviews or as part of surveys approved by the U.S. Office of Management and Budget.

Civil Rights Noncompliance Issues Resolution

Probable noncompliance is a factual finding, based on a review or other monitoring process, that certain civil rights requirements are not being met by an individual or agency. If probable noncompliance is found, steps must be taken immediately to obtain voluntary compliance. If corrective action has not been completed within 60 days of the finding, a noncompliance report must be submitted through the USDA Regional Office to the Civil Rights Division (or through the SA if locally identified). Continued noncompliance may result in legal action.

Specific examples of discrimination and noncompliance with civil rights laws include:

- Exclusion of children from participation in school nutrition programs on the basis of race, color, national origin, age, sex, or disability.
- Disparate distribution of benefits and services to participants in programs.
- Differential treatment of a participant or group of participants on the basis of race, color, national origin, age, sex, or disability in determining whether admission policies, enrollment, quota, membership, or other requirements of a program have been met.
- Separation of persons by different meal periods, seating arrangements, or way food is served because of race, color, national origin, age, sex, or disability.
- Failure to apply the same eligibility criteria for free or reduced-price meals or milk to all persons attending schools within a LEA.

Civil Rights Poster Display

At all food service sites the nondiscrimination poster developed by the USDA, or an alternative approved by the FNS, must be displayed in a prominent place, visible to the public. Additional copies of the poster are available from the SA.

Civil Rights Public Notification Program

Each LEA or other program agency has specific responsibilities with respect to public information about its program. Parents or guardians of students in schools participating in the programs and local minority and grassroots organizations must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing requirements that pertain to program eligibility and benefits.

Grassroots organizations are defined as any of those at the local level which interact with potential participants, such as community programs, civic organizations, migrant groups, churches, neighborhood councils, local chapters of the NAACP or JACL, or similar groups.

The LEA must also make available to the public, and to participants and potential participants in the program upon request, information about program requirements and the procedures for filing a discrimination complaint in English and/or the appropriate language if the people do not speak English.

All forms of communication and printed program information, including the free and reduced-price notification letters and public press releases, must include the following statement:

In accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material will at a minimum include this statement, in print no smaller than the text:

This institution is an equal opportunity provider.

Claims and Reports

Claim for Reimbursement. Site-based claims are entered and submitted electronically via CNPweb. The claim must be completed and submitted to the SA on or before the fourth working day of the month following the month being claimed.

Amended Claims. During the course of the school year it may be necessary to revise a previously submitted claim. Revisions to claims can be made electronically via CNPweb, which will also retain a copy of the original claim.

Claim revisions that result in additional reimbursement (increases in the number of meals claimed) must be received by the SA within 90 days after the end of the month being amended. Downward amendments may be submitted anytime.

The SA may grant an exception for an upward-amended claim which exceeds the 90-day required period. A formal request must be made to the SA for this one-time-only exception which will be forwarded to the USDA Regional Office. This formal request must address the problem contributing to the lateness of the amendment and outline the actions to be taken to avoid future late amended claims. The decision to grant the exception for a late amended claim can only be made by the USDA Regional Office, based on the acceptability of the Corrective Action Plan (CAP).

Late Claims. Institutions must submit original claims to the SA within 60 calendar days following the month to be claimed to be eligible for reimbursement. The SA may grant an exception for a claim which exceeds the 60-day period. A formal request must be made for this exception, which is available only once every three years. To receive the

exception the LEA must submit an acceptable corrective action plan (CAP) to the SA. The plan must address the problem contributing to the lateness and outline the actions to be taken to avoid future late claims. The decision to grant the exception will be made by the SA based on the plan's acceptability.

Competitive Food Service

Competitive food means any food sold which is not part of the reimbursable meal. Prohibited competitive foods are called "foods of minimal nutritional value" (FMNV) and may not be sold in the meal service or dining areas until after the end of the breakfast or lunch period. Competitive foods which are not FMNV may be sold during meal periods. Income from the sale of allowed competitive foods must accrue to the nonprofit food service, the school, or approved student organizations.

It is the school's responsibility to know what items are prohibited from being sold and to monitor compliance with the regulation. Violations may jeopardize the receipt of federal and state funds and USDA Foods. Schools in violation of the regulations will have all reimbursements denied for the day of the offense. Repeated violations will be deemed an administrative deficiency, and appropriate corrective action must be taken by the LEA to maintain program participation. (See **Foods of Minimal Nutritional Value.**)

Coordinated Review Effort (CRE)

The Coordinated Review Effort (CRE) is a unified federal and state administrative review procedure. The SA must conduct a CRE in each LEA at least once every five years. The CRE examines "general areas" and two "performance standards."

General Areas of Review. The general areas of review may include the following:

- Free and reduced-price application processing and verification
- Food production records (food quantities)
- Competitive foods
- Nonprofit school food service
- Civil rights
- Procurement practices
- Food service management companies
- Monitoring responsibilities
- Reporting
- Record keeping

Performance Standard I (Certification, Counting, Claiming, Consolidating). All free, reduced-price, and paid meals claimed for reimbursement must be served only to children eligible for each type, and they must be counted, recorded, consolidated, and reported through a system which consistently yields correct figures.

A follow-up review is required when a specified number of schools in a LEA have an inadequate system for certifying, counting, claiming, and consolidating, or when a school

has an inadequate system (10 percent or more, but not less than 100, of the free and reduced-price meals are claimed incorrectly).

Performance Standard II (Meal Components). Meals claimed for reimbursement within the LEA contain food items required by program regulations. A follow-up review is required if 10 percent or more of the total number of meals observed are missing one or more of the required food components.

Corrective Action. Errors found during a review require corrective action by the LEA and may require fiscal action by the SA. Where the errors exceed the review threshold of one or more of the performance standards, a formal corrective action plan (CAP) must be developed by the LEA and submitted to the SA within a specified time for approval. It is the responsibility of the LEA to contact the SA for further clarification if the cited facts are not accurate, errors are not identified clearly, or assistance is needed to complete the CAP.

The CAP must indicate how the deficiencies will be corrected and propose a specific schedule. The appropriate fiscal adjustment will be made after the LEA completes corrective action and submits documentation to the SA.

Follow-Up Review. LEAs that have exceeded the review threshold require a follow-up visit. New sites may be selected to obtain the required number for a follow-up review. If a performance standard violation that was not noted previously is found during a follow-up review, the SA must document it and take corrective and fiscal action. If the violation exceeds the review threshold, a new CAP must be developed, and another follow-up review will be conducted.

Procedures. LEAs will be notified of a tentative review date. Schools selected for review will generally be scheduled at one per day. If the LEA is large, an SA team may conduct the review to reduce the time needed. When notified of a review, LEA officials should arrange to have all records and other documents available for examination and all appropriate personnel on hand for interviews.

Site Selection. Sites are selected for review based on the average number of free daily meals served and a free participation percentage. Other sites may be selected due to perceived problems or other SA criteria.

D

Disaster Feeding

Disaster organizations request food assistance through the state Distributing Agency (DA) (distribution personnel at the SA). The Red Cross or other recognized organizations equipped to provide emergency assistance may contact LEAs regarding the use of their USDA Foods for disaster feeding programs. It is not necessary that the USDA or FNS approve the use of USDA Foods in case of feeding programs when the area has been declared a disaster area by the President. The LEA should inform the SA as soon as possible.

LEAs must keep records (through response organizations) showing a description of the disaster situation, the number of people affected, the period of time of the mass feeding, the quantities and types of food used, and the number and location of feeding sites.

Every possible effort should be made to assist and support the relief agencies' mission in a disaster situation. If the use of the school kitchen or a central kitchen will help to provide congregate meals to affected victims, then they should be given use of that facility. A school building does not have to be designated a disaster shelter for its kitchen facilities to be utilized to prepare congregate meals.

If there has been a Presidentially Declared Disaster, the Federal Emergency Management Agency (FEMA) will pay 75 percent of the costs directly related to the disaster and the state will be responsible for the other 25 percent. USDA Foods used in conjunction with a Presidentially Declared Disaster will be replaced by FNS. In non-Presidential disaster situations (situations of distress, or local catastrophes), reimbursement for costs must be sought from the state, and USDA Foods will be replaced to the extent that funds are available from FNS. (See also *Emergency Readiness Plan: Guide and Forms for the School Food Service Operation* produced by the National Food Service Management Institute and distributed to public LEAs, available online at <http://www.nfsmi.org/documentlibraryfiles/PDF/20080207044955.pdf>.)

Disciplinary Action

Denying meal benefits to any child as a disciplinary action is prohibited. Detaining of students which results in their not being able to participate in the (full) meal period is also contrary to the intent of the program. It is an administrative responsibility to provide students full access to the food service program. Delaying meal service to the student as punishment can also pose a sanitation or safety problem and is prohibited. However, unruly, combative or otherwise problematic children may be segregated from the main population for service.

Drug-Free Workplace

As a condition of receiving federal funds, all institutions must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. Each institution must distribute a

copy of a statement describing the institution's drug-free policy to all employees. The statement must:

- Tell your employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in your workplace.
- Specify the actions that the institution will take against employees violating that prohibition.
- Inform each employee that as a condition of his/her employment, he/she must abide by the terms of the statement and that he/she must notify the institution in writing if he/she is convicted of a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after conviction.

Each institution must establish an ongoing drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace.
- The institution's policy of maintaining a drug-free workplace.
- Any available drug counseling, rehabilitation and/or employee assistance programs.
- The penalties that the institution may impose upon them for drug abuse violations occurring in the workplace.

If any employee is convicted of a drug violation in the workplace, the LEA must notify the SA in writing within ten days after learning of the conviction, including the employee's name and position in the letter of notification. The SA will forward the notice of conviction to the RO.

Each LEA should maintain proof of the distribution of these materials to all employees.

E

Enrolled Children

All children enrolled in the school and present at the time of meal service are eligible to participate in the NSLP and SBP. Participation in the SMP is restricted to children who do not have access to NSLP or SBP (due to attendance periods such as those of kindergarten and pre-kindergarten children).

Children visiting in one school but enrolled in another school within the LEA may be claimed as though they were in their own school. Children visiting from a school in another LEA may also be claimed at the paid rate. Eligible children's meals may be claimed in the free or reduced-price categories if copies of the children's free and reduced-price applications are filed with the host LEA/school.

Even Start Eligibility

A child may be categorically eligible for free meals based on participation in Even Start if the following three criteria are met. First, the school or institution that is providing the child with Even Start services must be participating in the Child and Adult Care Food Program (CACFP), National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Special Milk Program for Children (SMP), and/or closed enrolled sites in the Summer Food Service Program (SFSP). Second, the child must be enrolled as a participant in a federally-funded Even Start Family Literacy Program. Third, the child must be at the pre-kindergarten level. Once a child has entered kindergarten, that child loses his/her categorical eligibility for free meals based upon Even Start. Additionally, categorical eligibility does not apply to other family members.

F

Family-Style Meal Service

In family-style service, large containers of food are placed on the tables and children, with adult supervision and assistance, are expected to serve themselves. Unlike cafeteria lines or unitized meals in preset service, family style affords some latitude in the size of initial servings because food is actually available at each table for additional helpings. However, service must comply with the following guidelines:

- Enough food must be placed on each table to provide minimum portions of all required foods for all children, and to feed adults supervising meal service at the table.
- At least the minimum regulatory portion must be offered to every child.
- When the full portion required by the regulations is not initially served, supervising adults must actively encourage the children to accept more during the course of the meal.
- If the school employs the offer versus serve option, the required number of served components may change, but supervising adults must see that reimbursable meal requirements are met.
- Point-of-service accountability is required for meal reimbursement.

Field Trips (Off-Site Meals)

Meals are to be served and consumed as part of the program at school or school-related activities. School meals given to children to take home are not reimbursable. However, meals served to students in connection with work-study programs and on school supervised field trips may be reimbursed because they are consumed as part of a school function. Meals served off-site should be subject to especially stringent sanitary and precautionary measures to avoid contamination and spoilage. Documentation must be maintained by the school or district supervisor. (See the Off-Site Meals form available online at <http://www.schools.utah.gov/cnp/NSLP/default.asp>.)

Children eligible for free and reduced-price meals who are participating on a field trip must receive appropriate meal benefits without being overtly identified. Eligible students participating in a school-sponsored activity at another school must have the opportunity to receive benefits or eat meals at that school. The school where the child is enrolled must provide information establishing eligibility. (See **Enrolled Children**.)

Meals purchased in fast food and other restaurants do not comply with the intent of the program, and their documentation and evaluation toward meeting meal pattern requirements would be both cumbersome and problematic. Furthermore, children who are eligible for free or reduced-price meals must have the opportunity to receive these benefits, and these situations make it difficult or impossible for them to participate.

Financial Administration

The LEA must maintain, or have maintained, full and accurate records in accordance with generally accepted accounting principles (GAAP) and any other state and federal requirements for food service operations which receive federal financial assistance. Records must be retained for three years after the end of the federal fiscal year to which they pertain or until any unresolved audit questions are satisfied. Records must include the following information:

- The number of meals served daily to children and adults by type (lunch, breakfast, milk only, after-school snack)
- The number of meals served daily by category (free, reduced-price, paid, adult)
- All applications for free or reduced-price meals
- All income accruing to the food service program (payments by children and adults, federal reimbursement, state reimbursement, interest earned, and any other income)
- Itemized receipts for all food purchased for the program
- Itemized receipts for labor, capital outlay, and program expenditures other than food
- The value of any other donated food or services or gifts of any type

Allowable Costs

Allowable cost groups include food used; supplies and expendable equipment; repairs, rental or use of equipment, and other services; and labor. These are considered direct costs.

Capital Expenditure. Capital expenditure refers to acquisition of equipment. Equipment is an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the LEA or \$5,000. Items that do not meet the federal standard (\$5,000) or the LEA's (lower) definition may be directly expensed at the time of purchase in accordance with the procedures for handling supplies.

An LEA cannot expense equipment purchases for financial statement purposes. The equipment must be set up as an asset and expensed over the period in which it is used. Depreciation is the vehicle for measuring the annual benefit the LEA gets from using the equipment in its operations.

Cost of Food Used. The cost of food used is the dollar value of the beginning inventory, plus the value of food acquired during the period, minus the value of the ending inventory. The value of the inventory is based upon the purchase price of food items in stock. The first-in, first-out (FIFO) method of inventory valuation is the most accurate and is strongly recommended. Either a perpetual or physical inventory system may be used. However, all perpetual inventory systems must be verified by a physical inventory at least annually.

Indirect Costs. Indirect costs are those incurred for the benefit of the school food service, as well as other school functions, but not readily identifiable as part of the school food account. Indirect costs charged to the school food account cannot exceed the total amount of direct costs, excluding the cost of food used, times a preapproved indirect cost rate.

The indirect cost rate is the ratio of indirect to direct costs, based on the LEA's actual expenditures. It is established by the School Finance and Statistics section of the USOE and negotiated annually with the LEA.

Administrative service is not an indirect cost and should not be charged either directly or indirectly to the school food fund. Equipment and/or its depreciation or cost of use is a direct, not an indirect, expense. Indirect costs should be charged to the program when they are incurred.

Labor. Costs incurred for labor are charged to the program. No labor costs may be claimed more than once. Allowable labor costs include salary and other employee benefits, such as health insurance, retirement fund, etc. Because the cost of meals furnished without charge to adult food service employees constitutes an operating expense, it must be accounted for in the financial records.

Repairs, Rental and Use of Equipment, and Other Services. Costs incurred in the routine maintenance or minor repair of nonexpendable equipment and rental or use of equipment for the school food service may be charged to the program.

Supplies and Expendable Equipment. LEAs may charge the acquisition cost of nonfood items and expendable equipment used directly in food service operation to the program.

Fund Restrictions

The use of income accruing from the operation of any nonprofit food service program is restricted.

Generally Unallowable Costs. Costs which are not eligible for payment from federal funds include:

- Bad debts.
- Fines and penalties.
- Interest and financial costs.
- Legislative expense or executive direction (salaries and expenses of city councils, school boards, etc.).
- Contingency reserve contributions.
- Depreciation or cost of use for publicly owned buildings and improvements.

- Labor costs for administrative personnel above the food service employee level who do not have direct program responsibility.
- Costs associated with sales or service to adults and other a la carte sales.

Depreciation or costs of use are not allowed for:

- Nonexpendable equipment which has been fully depreciated.
- Nonexpendable equipment in storage for future use or disposal.
- Any equipment purchased with federal funds.

The following types of capital expenditures are also unallowable:

- Facilities.
- Repairs which materially increase the value or useful life of capital assets (rebuilding).
- Other capital asset purchases.
- Contractual agreements which are classified as rental-purchase or leases with an option to purchase.

Land or Buildings. Federal income from any nonprofit food service program cannot be used to purchase land, acquire or construct buildings, or alter existing buildings.

Interest Accruing in School Food Service Accounts. Interest which has accrued in individual school food service accounts must be remitted to the district's CNP. This interest may not be used for other school purposes.

Surplus Milk Funds. When payments are collected in advance and there is a balance left in the fund (because of student absences, for example), this money must be credited to the SMP account. The money may not be retained by the school or credited to the district general fund.

Net Cash Resources of Food Service Programs

The net cash resources of a food service operation must be limited to an amount consistent with program needs. At least once during each fiscal year, the SA will review the net cash resources reported for schools and require an explanation of the need for balances amounting to more than three months' operating cost. If, after considering the explanation or the plan for utilizing the balance, the SA determines that the amount is excessive, reimbursement payments may be reduced or denied until the net cash resources drop to an amount consistent with operating needs.

Nonprofit Program Operation

All food service programs receiving federal or state financial assistance must operate on a nonprofit basis. Institutions are required to maintain appropriate revenue and expenditure records to document the nonprofit operation of their food service programs. Designation as a nonprofit operation, a condition for program participation, is made by

evaluating the financial status of the food service program as a whole. All funds accruing to these operations must be used to reduce the cost to the paying child, improve the quality of the food, purchase supplies, and maintain services and equipment used in storing, preparing, or serving food and/or milk to children.

Food Service Management Companies (FSMC)

If an LEA employs a food service management company (FSMC) to operate its program(s), it still is responsible for ensuring the operation is in compliance with all regulations and must monitor activities through visitations. For example, the LEA must ensure that all expenditures from its nonprofit food service account meet the requirements for an allowable cost using Office of Management and Budget (OMB) cost circular requirements. Approved bid/proposal procedures must be followed. The CNP office and the Utah State Division of Purchasing can also help with this process. CNP must approve the invitation to bid or the request for proposals prior to the LEA issuance. After the bid/proposal procedure has been completed, the contract must be reviewed by the SA before the award is made. An annual review of the contract or amendments to it is conducted with the LEA by the SA. The LEA must conduct a yearly review of the practices and operations of the FSMC. Regulations governing FSMCs can be found in 7CFR Part 210.16. Because there are complex rules governing the procurement of FSMCs, LEAs are encouraged to contact the SA at least one year in advance of the date they wish to have a FSMC in place. (See *Contracting with Food Service Management Companies*, available online at <http://www.fns.usda.gov/cnd/guidance/FSMCguidance-sfa.pdf>.)

Foods of Minimal Nutritional Value (FMNV)

Foods of minimal nutritional value (FMNV) include artificially sweetened products which provide less than 5 percent of the U.S. recommended dietary allowances (RDA) of at least one of eight specified nutrients per serving. Other items which provide less than 5 percent of the RDA for at least one of the eight specified nutrients per 100 calories are also classified as foods of minimal nutritional value. The eight nutrients assessed are protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron.

Categories of foods of minimal nutritional value include:

- Soda Water—All beverages that are carbonated by either natural or artificial means and are made with or without any natural or artificial flavoring(s), sugar(s), artificial sweetener(s), added nutrient(s), juice concentration(s), or single-strength juice(s) are classified as foods of minimal nutritional value. Carbonated beverages include sparkling water, seltzer water, club soda, or naturally carbonated water (such as Perrier).
- Water Ices—Water ices are prepared from the same ingredients and in the same manner as sherbets, except that they need not be pasteurized nor contain milk nor milk-derived ingredients, and no egg ingredient, other than egg white, may be used.

- Chewing Gum—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing are in this category.
- Candies—These are processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients. They include the following types:
 - Hard Candy—A product made predominantly from sugar (sucrose) and corn syrup that may be flavored and colored and is characterized by a hard, brittle texture. It includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after-dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jawbreakers, and cough drops.
 - Jellies and Gums—A mixture of carbohydrates that form a stable, gelatinous, jellylike system. They are generally flavored and colored and include gum drops, jelly beans, and jellied and fruit-flavored slices.
 - Marshmallow Candies—An aerated confection composed of sugar, corn syrup, invert sugar, 20 percent water, and gelatin or egg white, to which flavors and colors may be added.
 - Fondant—A product consisting of microscopic-sized sugar crystals that are separated by a thin film of sugar and/or invert sugar in solution, such as candy corn and soft mints.
 - Licorice—A product made predominantly from sugar and corn syrup that is flavored with an extract made from the licorice root.
 - Spun Candy—A product made from sugar that has been boiled at high temperature and spun at high speed in a special machine.
 - Candy-Coated Popcorn—Popcorn coated with a mixture made predominantly from sugar and corn syrup.

Compliance with FMNV Rules

The SA must aggressively enforce the prohibitions on FMNV. There are three elements the SA must assess in order to determine if a LEA is complying with the requirements for FMNV. These are the food service area/meal period, access to FMNV, and the use of funds in the nonprofit school food service account.

Food Service Area and Meal Period. The LEA must properly designate the food service area for the purposes of restricting the service of FMNV. The “food service area” refers to any area on school premises where program meals are served or eaten. Eating areas that are completely separate from the serving lines are clearly part of the food service area. Furthermore, schools may not design their food service area in such a way as to encourage or facilitate the choice or purchase of FMNV as a ready substitute for, or addition to, program meals. In addition, “during meal periods” includes both the time of serving and the time the students spend eating the meal.

A food service area is the area where reimbursable meals under the lunch and breakfast programs are either served or eaten. In a typical meal service arrangement, reimbursable meals are served to children and eaten in a cafeteria-type setting in a single room. In all such situations, the entire room constitutes the food service area. Furthermore, if children are served their meals in one room and then go into another room where they are to eat their meals, each room is a “food service area” for the purpose of applying the FMNV rules.

A separate area in which FMNV may be sold “outside” the food service area may not be created in a food service area by the use of markings on the floor, barrier devices, portable partitions, etc. (See **Vending.**)

Access to FMNV. Access has two parts. First, it is not permissible to serve FMNV during meal service periods in the area where reimbursable meals are served and/or eaten. For example, if students are permitted to choose FMNV (e.g., a carbonated beverage) with a reimbursable meal, that FMNV is, in effect, being served in competition with the reimbursable meal. Therefore, this practice is prohibited since it introduces access to FMNV in the food service area during the meal service period.

Secondly, the meal must be priced and served as a unit. Any FMNV provided with a reimbursable meal “at no additional charge” is in fact being “sold” as part of the unit if the FMNV is only available when a reimbursable meal is taken. As such, this violates the prohibition against selling FMNV in the food service area during meal periods. Further, such arrangements violate the unit price requirement.

Use of Funds in the School Food Service Account. Costs charged to the nonprofit school food service account (SFSA) must be both necessary and reasonable. The costs of FMNV purchased for service in the food service area during meal periods are neither necessary nor reasonable, so they are not allowable costs. In some circumstances, the cost of minor quantities of FMNV used to decorate or enhance a food or menu item is allowable. Any other costs of FMNV for service in the food service area during meal periods must be disallowed.

If SFSA funds are used to purchase FMNV for sale outside a meal period or outside a food service area during meal periods, such purchases must be self-sustaining. This means that funds must be deposited in the SFSA in an amount sufficient to cover all direct and indirect costs relating to the purchase and service of FMNV with SFSA funds. Records documenting the recovery of these costs must be maintained and available for review.

The sale of competitive foods – that is, any food sold in competition with the program to children in food service areas during the meal service period and which do not include FMNV – may be allowed only if all income from the sale of such

food accrues to the benefit of the nonprofit SFSA or the school or student organizations approved by the school.

Exemption of Selected Foods

Food industry producers may apply to FNS for exemption of individual products from classification as FMNV. The nutritional content panel that appears on product packaging is not used in the exemption process since it reflects fortifications and enrichments which are not accepted as meeting the requirements specified in the federal regulations. Specifically exempted products are no longer considered as FMNV and may be sold as a competitive food in service and dining areas during meals. However, many manufacturers with exempted products produce many others that are similar but are not exempted; the exemption of one product does not mean similar products or a family of products are exempted unless specifically identified. The SA is periodically notified of exemptions and distributes updated lists to LEAs, and posts them online.

Free and Reduced-Price Benefits Administration

All children with access to meal or milk service operated as a pricing program must be given the opportunity to apply for free and reduced-price meals and free milk benefits. No child may be denied benefits if he or she has submitted a properly completed valid application that has subsequently been approved by the LEA or has been directly certified as eligible as a recipient of the Supplemental Nutrition Assistance Program (SNAP), assistance from the Family Employment Program (FEP) or assistance from the Food Distribution Program on Indian Reservations (FDPIR).

Applications for free and reduced-price meal benefits must be distributed to all students on or about the beginning of each school year. The SA will provide English and Spanish templates every year. Applications in 25 languages may be found at <http://www.fns.usda.gov/cnd/FRP/frp.process.htm>. The income reported by the parents/guardians should represent any funds that were earned during the month prior to completing the application. When an application is received it must be reviewed and an eligibility determination made within 10 operating days of receiving the application. LEAs may accept faxed applications from the households. All households that submit an application must be notified of their eligibility status. If benefits are denied, a written notice of denial, with appeal rights, must be sent.

The household is no longer required to report changes in circumstances, such as an increase in income, a decrease in household size or when the household is no longer certified eligible for SNAP benefits or FEP. An approved application is valid for the entire school year, unless the LEA has given only temporary approval, the application is discovered to have been incorrectly approved for benefits, or subsequent verification requirements indicate the household is not eligible.

LEAs are encouraged to approve households on a temporary basis when their need to assistance appears to be short-term, such as when the household reports zero income or

a temporary reduction in income. A suggested time period for temporary approvals is 45 days.

Homeless, runaway and migrant youth may be directly certified for free meals by the LEA's homeless coordinator or the migrant youth coordinator (a dated list of names with the coordinator's signature is sufficient). The LEA should keep a list of youth so certified by the coordinator. Once a child is certified as eligible to receive free meals, eligibility remains effective for the remainder of the school year. The child is considered directly certified and is not subject to verification requirements. (See **Homeless Children**.)

If a mistake has been made when declaring a youth eligible for free meals based on homeless, migrant or runaway status, the LEA should take steps to advise the household of the change by issuing a notice of adverse action which explains the household's right to appeal and inform the household that it can reapply for benefits. Households that were misclassified do not have to repay the LEA for the difference between their correct eligibility and their free status. Meal counts and reimbursement claims also do not need to be adjusted.

Once a child's eligibility has been determined, it is in effect for the entire school year. In the case of joint custody where the child lives in one parent's home part of the week and the other parent's home for the rest of the week, it is no longer necessary to change eligibility according to the home in which the child is living. As long as both parents live in the same district, either the mother's or the father's income can be used to qualify the child.

As of July 2008, all LEAs are required to use direct certification for those households on the Supplemental Nutrition Assistance Program (SNAP), Family Employment Program (FEP) funds or the Food Distribution Program on Indian Reservations (FDPIR).

If an LEA receives both documentation for direct certification and an application submitted on behalf of the child, school officials should disregard the application. Direct certification takes precedence over the application submitted by the household.

For complete information on determining student eligibility for free and reduced-price meals and free milk, see *Eligibility Manual for School Meals*, available online at <http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>.

Disclosure of Eligibility

LEAs may disclose, without parent/guardian consent, children's names and eligibility status (whether they are eligible for free meals or free milk or reduced-price meals) to persons *directly* connected with the administration or enforcement of a federal or state education program, as permitted by section 9(b)(2)(C)(iii) of the Richard B. Russell National School Lunch Act. The term "persons directly connected" for the purpose of disclosure includes federal, state and local program operators responsible for program administration or program compliance and their contractors. This does not imply that

these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate purposes.

The number of individuals provided access to free and reduced-price eligibility must be minimal. Only those whose function requires eligibility status or information may access the data. They include support personnel, such as those performing automated data processing.

LEAs are strongly encouraged to enter into a written agreement with officials using the information (see Appendix E of the *Eligibility Manual for School Meals* for a prototype, available online at <http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>). Anyone using the information must be informed that it is confidential and may not be disclosed or used for unauthorized purposes. In addition, users should be told that criminal penalties are stipulated for misuse of the information.

Although disclosure within these limits is authorized, the final decision to reveal free and reduced-price eligibility information rests with the LEA.

Fair Hearing Procedures

A family can appeal an adverse decision made by the LEA with respect to its free and reduced-price meal or free milk application. Prior to initiating a hearing, school officials or the parent or guardian may request a conference to discuss the situation, present information, obtain an explanation of data submitted in the application, and clarify the decisions rendered. Such a conference will not in any way prejudice nor diminish the right to a fair hearing. Information on hearing procedures must be sent to parents and guardians who have been denied free milk or meal benefits when they are informed they must pay full price for milk or full or reduced-price for meals. The fair hearing procedures are itemized in the Free and Reduced-Price Meal Policy, which is part of each LEA's permanent program agreement.

SNAP Electronic Benefit Transfer Numbers

Electronic Benefit Transfer (EBT) numbers may not be used to replace SNAP case numbers when determining categorical eligibility for free meals. Using the EBT card number in place of a SNAP case number is not an accurate representation of a household's eligibility for benefits.

The EBT number (which also may be called a primary account number or PAN) is never the household's case number. That number is assigned by the company that provides the cards and is used to tie the household into its SNAP balance using a personal identification number (PIN). There is also no expiration date on the EBT card because SNAP benefits never expire. Once benefits have been issued to a SNAP household, they can remain active on the card even after the household is no longer eligible to receive SNAP benefits.

Lost and Stolen Ticket Policy and Plastic Cards

Despite the relative cost of “credit”-type cards, the policy for handling lost, stolen and misused plastic cards used as a medium of exchange must allow for a minimum of three meals or special meal replacements for each free or reduced-price student within each school year when a ticket or card is lost or stolen. It is not necessary to replace a lost plastic card with another plastic card if the school chooses to make special meal arrangements.

The school may issue an inexpensive replacement card, such as one made of paper instead of a regular plastic one, in circumstances where the less expensive replacement card can be accommodated by the automated system. If it wishes to do so, the school can offer to sell the student a replacement plastic card if the student would prefer to have a full replacement. If a student declines this option, the school must meet the minimum requirements of the replacement policy, even if there is no alternative to issuing up to three replacement regular plastic cards to the student.

Policy

Each LEA must have a free and reduced-price meal policy statement. This statement is a permanent document that may be amended as changes occur. If an LEA has an approved policy on file with the USOE for the NSLP, it only needs to confirm in writing that the policy will also apply to any SBP and/or SMP sites it may add. Updated income guidelines and any other policy or regulation changes are issued annually by the USOE as they become available.

The USOE has drafted a prototype policy. This policy states the institution’s administrative procedures and responsibilities in offering free or reduced-price meals or free milk to children in accordance with current federal regulations. A copy of the complete prototype is included with each LEA’s permanent agreement. If a LEA does not adopt this prototype it must submit one for approval, including (1) its public press release about free and reduced-price meals, (2) the notification letter to parents about the program, and (3) the free and reduced-price meals application form for parents and any accompanying information. If the prototype is used the press release is issued by the USOE.

Prevention of Overt Identification of Eligible Children

Schools must take whatever measures are necessary in collecting applications or payments or serving food to ensure that there is no overt identification of children eligible for free or reduced-price meals.

There can be no physical segregation of any child, or any other discrimination, because of inability to pay full price for meals or milk. The names of children eligible to receive free or reduced-price meals or free milk shall not be published, posted, or announced, and these children cannot be overtly identified by special tokens, tickets, or other means. Eligible children shall not be required to work for meals or milk, use a separate service area, go through a separate serving line, enter the service area through a separate

entrance or at a different time, or be served meals or milk that vary from what is sold to children paying the full price.

A “reasonable” notice of sale of meal tickets or other forms of exchange means that advertisements or announcements must be made on a regular basis to the whole student body. If cash payments are widely used by full price students, it is strongly recommended that schools consider such options as offering a discount price on multiple meal-ticket sales, working with local parent/teacher organizations to increase sales, or utilizing a different collection procedure.

Prior Year Application Approvals

Applications from a prior year are valid for the first 30 operating days of the new school year. In year-round schools, the prior year’s application may only be used for 30 operating days after a new track begins. When a new application is submitted it must be evaluated within 10 operating days, and it takes precedence over the prior year’s eligibility. Once approved, households remain eligible for those benefits for a maximum of 30 days after the first operating day in the subsequent school year or when a new eligibility determination is made in the new school year, whichever comes first.

Reduced-Price Charge

LEAs cannot charge more than 40 cents for lunch, 30 cents for breakfast, or 15 cents for after-school snack, and the reduced price must be less than the full price. The reduced price may be as low as zero for the student; however, the reimbursement rate remains the same. The reduced-price meal charge must be the same in high schools and elementary schools to ensure that all children from the same household receive equal benefits. (The charge for a full price meal may be different in secondary and elementary schools, however.)

Special Situations

Some special situations are not addressed in the *Eligibility Manual for School Meals*.

Acceptable Signatures for Foster Children. The Department of Human Services (DHS) has employees known as trackers who monitor some foster children in the system. If the tracker is an adult, his or her signature on the free and reduced-price meal application is acceptable. All foster children’s applications must have an indication of income (or a statement that the child has “no income” or “zero”). If DHS submits a letter for the foster child, the letter must contain the child’s name, the child’s income, the statement, “I certify that the information is true and correct and that all income is reported. I understand that this information is being given for the receipt of federal funds, that school officials may verify the information on this application, and that deliberate misrepresentation of the information may subject me to prosecution under applicable state and federal laws,” and the signature of the caseworker. All foster child applications are a part of the pool of applications considered for verification.

Indian Children Placement Program. Eligibility for foster Indian children placed by the LDS Church is based on the income of the family with whom they are living. These foster children should be counted as part of the household.

LDS Church Missionaries. Missionaries living away from home are part of the economic unit of a family applying for free or reduced-price meals if the family is providing financial support for them. In this situation the missionary should be included in the household size.

Military Families. Instruct families completing the meal benefit forms to include the name and the portion of income deployed service members make available to the household. The determining official should count the service member as a part of the household in establishing a child's eligibility for meals. Family Subsistence Supplemental Allowance (FSSA) received by a household should not be treated as income in determining eligibility for free and reduced-price meals. Military combat pay should also be excluded from income eligibility determinations.

Self-Employed Individuals – Use of IRS 1040. When using the IRS Form 1040 to determine income, the deduction of losses is not permitted in determining eligibility for benefits in any of the Child Nutrition Programs. Eligibility is determined by treating any losses as “zero income” (rather than subtracting them from other earned income). In self-employment income from a farm or business, losses are allowed to be computed when determining if that farm operation or business earned a profit or showed a loss; however, any loss may not be used to decrease other earned income.

For example, if a self-employed person reported the following on the Form 1040, all from his/her self-employment: line 12, -\$5,000; line 13, -\$2,000; and line 17, \$4,000, the determining official would first combine these figures for gains and losses to derive a net business loss of -\$3,000. Note that the Form 1040 itself does not isolate these particular calculations, so the determining official must calculate this separately. If the taxpayer's spouse is a wage earner reporting \$30,000 in income, the IRS would view their “household income” as \$27,000. However, the USDA CNPs would count the self-employment income “loss” as “zero,” so the “household income” would be \$30,000. Note that these lines may show other income and the determining official should carefully calculate the net self-employment income and perform calculations separate from the ones found on the Form 1040.

Verification

Verification of a sample of applications is required yearly. LEAs must select and verify the information on a sample of 3 percent of all approved applications selected from “error prone” applications (“error prone” applications are those within \$100 per month of the

eligibility limit for free or reduced-price benefits). There are alternate methods for determining the sample size. Ask the SA for further information on this procedure.

LEAs must conduct a two-step verification process. The first step is for a person (one who did not make the original eligibility determination) to review the information on applications chosen for verification to assure that the eligibility determination is correct. If the confirmation review shows that there should be a decrease in benefits (free to reduced-price or paid), the LEA proceeds with and completes all verification before any notification of a new eligibility status is given. These procedures are designed to avoid a possibility of unnecessary reduction in benefits.

The second step is to begin to verify the information on the application. LEAs may verify the information on the application in one of two ways. The LEA may use direct verification to confirm the status of any household using income reported to SNAP, FDPIR, FEP, or state Medicaid. If direct verification is not used, the individual household must be contacted. Households must be allowed to provide documentation of income for any point in time between the month prior to the date the application was completed and the time when the household was required to provide income documentation. LEAs are required to provide a telephone number the household can call free of charge if they have questions regarding verification. LEAs are required to make at least one additional attempt to obtain verification from households that do not respond to the first request for information.

Verification for cause may still be conducted if the LEA has information indicating that income was not reported correctly. For more information, see *Eligibility Manual for School Meals*, available online at <http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>.

Fresh Fruit and Vegetable Program (FFVP)

Elementary schools that already participate in the NSLP, and have a free and reduced-price eligibility of at least 50 percent may apply annually to participate in the Fresh Fruit and Vegetable Program. Selected schools enter into a year-long agreement with the SA to operate the FFVP. Priority goes to those schools with the highest percentage of students eligible for free and reduced-price school meals. (See *Fresh Fruit and Vegetable Handbook*, available online at <http://www.fns.usda.gov/cnd/ffvp/Resources/FFVPhandbookFINAL.pdf>).

Program Operation

Selected schools are required to serve fresh fruits and vegetables to students at no cost during the school day. They are to be provided separately from the lunch or breakfast meal. The FFVP also has requirements for nutrition education and wide publication of the availability of fresh fruits and vegetables for students.

Claiming Procedures

Schools must submit a monthly claim and are reimbursed by the State agency for purchases of fresh fruits and fresh vegetables served free to children during the school day. Instead of reimbursement at a per-meal rate, FFVP schools are reimbursed for all allowable costs up to the amount of funding awarded to the school, up to the total amount of the grant made to the school. The claim for reimbursement must identify food costs, operational costs, and administrative costs.

H

Hazard Analysis Critical Control Points (HACCP)

LEAs must implement a Hazard Analysis Critical Control Point plan that will be used during the preparation and service of meals. Utah requires that each kitchen have at least one person certified in an approved sanitation program. The ServSafe program meets these requirements.

USDA has provided prototype documents for the implementation of a process approach to HACCP. For more information, see *Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles*, available online at <http://www.fns.usda.gov/cnd/CNlabeling/Food-Safety/HACCPGuidance.PDF>.

Head Start

Head Start and Early Head Start are comprehensive child development programs that serve children from birth to age five. They are child-focused programs and have the overall goal of increasing the school readiness of young children in low-income families.

All children enrolled in Head Start and Early Head Start are eligible to receive free meals, including those children that do not meet the income eligibility criteria. Participants in these programs may receive free meal benefits without further application or eligibility determination. All reimbursable meals served to these participants may be claimed at the free rate.

Homeless Children

“Homeless” refers to individuals who lack a fixed, regular, and adequate nighttime residence. The definition includes:

- Children and youth who are sharing the housing of other persons due to a loss of housing, economic hardship, or similar reasons; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement.
- Children and youth who have a primary nighttime residence that is a public or private place not designated for or ordinarily used as a regular sleeping accommodation for human beings.
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.
- Migratory children who qualify as homeless because the children are living in circumstances described above.

Utah school districts have a local educational liaison for homeless children and youth. This person is charged with determining which students meet the definition of “homeless.” Documentation provided by this person substantiates free meal eligibility.

The documentation from the liaison must consist of the child's name or a list of names, effective date(s), and the signature of the local educational liaison (or the director of the homeless shelter). This documentation constitutes direct certification, does not require an Income Eligibility form and is not subject to verification requirements. (See **Free and Reduced-Price Benefit Administration.**)

LEAs should work with the liaison to ensure that children are provided free meal benefits as promptly as possible, as well as to ensure that the school food service is promptly advised when children leave the school or are no longer considered homeless. In the latter case, school officials must provide the household with an application for free and reduced-price meals.

A child or family may temporarily reside with another household and still be considered homeless under the definition of "homeless." In these cases the household size and income of the host family is not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the local educational liaison. Additionally, when a host family applies for free and reduced-price meals for their own children, the host family may include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing or food. In such cases, the host family must also include any income received by the homeless family. School officials must determine eligibility for the host family in the traditional manner. However, free meal eligibility for the homeless child is based on the documentation provided by the local educational liaison, even when the child is included on the host family's free and reduced-price meal application.

I

Infant Meals

When children up to one year of age participate in the NSLP or SBP, an infant meal pattern shall be offered. For more information on specific requirements, refer to 7CFR Parts 210.10 (lunch) and 220.8 (breakfast) of the federal regulations.

L

Leftover Food

To avoid waste, available food that is not served or in original containers that remain unopened can be reused in another meal if this practice is not contrary to state and local health codes. Served but unopened milk may not be re-served. In schools where non-consumption and, therefore, the practice of recycling, are extensive, measures should be taken to increase consumption through more appealing service, nutrition education, and other means.

Schools are encouraged to donate unserved leftover foods to appropriate nonprofit institutions, such as soup kitchens or homeless shelters. Making advance arrangements and a regular schedule might facilitate this arrangement. Meals cannot be claimed for reimbursement, but the cost is allowable.

Local Wellness Policy

Each LEA, including RCCIs, must implement a wellness policy which includes goals for nutrition education and physical activity and nutrition guidelines for all food sold on campus, assure that nutrition guidelines for school meals will not be less restrictive than federal policy, establish a plan for measuring effectiveness of the policy, and include parents, school food service professionals, school board members, etc., on the wellness policy committee. The goal of the wellness policy is to promote the health of students and to address the problem of childhood obesity.

There are a number of templates and sample policies available. Contact the SA for assistance.

Lost or Stolen Tickets, Lunch Cards, or Lunch Numbers

The procedures for handling lost, stolen, or misused forms of exchange in a school's food service system (tickets, ID numbers, cards, etc.) must conform to the following standards:

- The LEA must establish a policy regarding the responsibility of the student for the exchange medium and advise parents and students about it in writing. Notice of the policy is to be sent when applications are distributed to households or upon approval for free or reduced-price meal benefits.
- A minimum of three replacements or special meal arrangements resulting from lost, stolen, or misused exchange forms must be allowed each student during the school year.
- The school must maintain a list of students who have had problems with lost, stolen, or misused forms during the current school year and the number of times they have occurred. Before a meal is denied to any student, the list should be reviewed to determine if three problems have been reported.
- At least one advance written warning must be given to the student and parents prior to refusal of a meal. The written warning must include an

explanation that the student has repeatedly abused the policy and will be expected to either bring lunch or pay full price for it.

- Meals must always be provided to preprimary and young elementary students or any disabled students who may be unable to take full responsibility for their exchange form.

(See **Free and Reduced-Price Program Administration.**)

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M

Meal Accountability

Schools must maintain auditable records to document eligibility of meals and milk claimed for reimbursement. Minimum records include (1) point-of-service and kitchen participation counts, and (2) complete meal production information.

Meal Count

An accurate meal count by category of the participant must be taken daily at the point of service. To document that the system is accurate, it is necessary to obtain two types of meal counts by different individuals and methods. These are usually designated as the point-of-service (office) count (by eligibility category) and the kitchen count (by food, plates, or trays). The point-of-service count must follow the procedures detailed in the LEA's approved free and reduced-price meal policy statement. To be reliable, the count for each category must be based on the actual count of the students served, consistently yield accurate results and provide a record of the numbers of free, reduced-price and paid meals served daily. If a combination of computer based meal counting and paper point of service counts are used, the paper count must be kept as a supplement to the computer count. Alterations that occur after the day end procedures (i.e., hand count sheets not entered or eligibility status changes) must be documented. (See *Meal Counting and Claiming Manual* available online at <http://www.schools.utah.gov/cnp/Files/SNP/Meal%20Counting%20and%20Claiming%20Manual.pdf>.)

Point-of-Service Meal Count. The point-of-service count is used to determine the number of meals served by category for claiming purposes. The daily count should be able to distinguish:

- Meals served to children: regular program participants (free, reduced-price, and paid); cafeteria workers (free, reduced-price, and paid); and others (nonprogram children).
- Meals served to adults: program personnel (kitchen workers, school food service staff, and other service personnel, such as custodians and supervising teachers); and nonprogram visitors (approved guests, faculty, and staff).

If meals are served on credit, they must be included as part of the point-of-service count on the day they are served, not the day they are paid. This is the only way the kitchen count will be able to reconcile the system's accuracy.

On a case-by-case basis, the USOE may approve an alternate counting method, providing that such method results in an accurate and reliable count system. Requests must be submitted in writing in sufficient detail to allow the USOE to determine whether an accurate count of meals by category will be obtained.

Kitchen Meal Count. The purpose of the kitchen count is to validate the total number of meals served. The kitchen count should also distinguish adults from children. This count may not be used for claiming purposes. Some programs use a different colored tray for adults to assist in portion control as well as keep an accurate count.

Meal Production Records

Sufficient records to show meal compliance are required. An example of a Food Production Record form is included in *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>. The format differs depending on which menu-planning system a school chooses.

Actual Usage. The Food Production Record form becomes an auditable document of program operations. It must include the following:

- Number of reimbursable meals planned and actually served
- Menu items, including milk and condiments
- Portion or serving sizes for each age/grade group (cup, oz, each)
- Adult, a la carte sales, and other non-reimbursable meals
- Total amount of food: planned, prepared and served
- Recipe(s) used
- Documentation of substitutions – dated
- Special diets
- Amount of food leftover or short

Food Buying Guide. The Food Buying Guide was developed to assist LEAs in determining quantities of food to prepare. It could also be used to assure meal compliance. See USDA's *Food Buying Guide for Child Nutrition Programs*, available online at <http://www.fns.usda.gov/tn/resources/foodbuyingguide.html>. Otherwise, LEAs must obtain manufacturers' individual product specifications to document that they are meeting meal requirements (the USDA's CN label is required for food-based menu planning, but it does not specify nutrients and is unacceptable for nutrient analysis).

Nutrients. Adherence to the Dietary Guidelines for Americans is required, and training modules are available to assist in implementation. Special emphasis is placed on lowering fat, cholesterol, sugar, and salt, and increasing fiber in the menu for school meals. LEAs are also encouraged to increase offerings of whole grains, increase offerings of fruits and vegetables, and offer only low-fat or fat-free milk products.

Preplanning. The Food Production Record form is designed as a preplanning tool to help determine the menu and quantities of food needed to meet the meal requirements for the students. The minimum requirement is to have five days

planned in advance at all times. When choices are offered to students, each menu must be preplanned individually to assure that meal requirements are met.

Exceptions to the Meal-Pattern Requirements

Exceptions to the meal pattern may be allowed only for emergencies as a result of disaster recognized by the FNS, medical exceptions for individual dietary problems, special exceptions granted by the FNS for experimental study, and exceptions due to religious reasons.

If unusual conditions temporarily prevent a school that normally has a supply of acceptable milk from obtaining delivery, the SA may approve use of an alternate form or even no milk. Telephone approval from the SA is required, and documentation must be maintained on the Exception to Meal Pattern form.

Emergencies. In the event of a natural disaster, FNS may temporarily allow schools to serve lunches for reimbursement that do not meet the nutritional requirements. Any emergency situation must have SA approval, and documentation must be maintained by the LEA. (See the Exception to Meal Pattern form available online at <http://www.schools.utah.gov/cnp/Files/SNP/Meal%20Counting%20and%20Claiming%20Manual.pdf>.)

Medical Exceptions. Substitutions **must** be made in the meal pattern if individual participating children are unable to eat school meals because of their disabilities, when that need is certified by a licensed physician. The physician's statement must identify:

- The child's disability.
- An explanation of why the disability restricts the child's diet.
- The major life activity affected by the disability.
- The food or foods to be omitted from the child's diet, and the food or choice of foods that must be substituted.

Schools **may** make food substitutions for children who do not have a disability but are medically certified as having a special dietary need. These substitutions must be made on a case-by-case basis, supported by a statement from a medical authority. A medical authority is defined as a physician or surgeon, registered dietitian, physician's assistant, or a registered nurse or nurse practitioner. In the case of a non-disability milk substitution, the statement may also be from a parent. A copy of the USOE template of the Special Dietary Needs Request form is available online at <http://www.schools.utah.gov/cnp/Files/default.htm> (See *Accommodating Children with Special Dietary Needs in the School Nutrition Programs*, available online at http://www.fns.usda.gov/cnd/guidance/special_dietary_needs.pdf.)

Special Exceptions. FNS may approve variations in the food components of the meal on an experimental or continuing basis in any school where there is evidence that such variations are nutritionally sound and necessary to meet ethnic, religious, economic, or physical needs.

In accordance with this provision, Seventh Day Adventist schools and institutions may use meat analogues (plant protein products) at the 100 percent level to meet the meat/meat alternate component. Contact the SA for an approved list of meat analogues.

Also in accordance with this provision, meals served in Jewish schools or to Jewish students participating in the program may be exempted from the enrichment portion of the bread requirement during the religious observance of Passover. Other variations in the meal pattern may be made in accordance with Jewish dietary laws. Contact the SA for a copy of FNS guidance on this issue.

Meal Hours

Meals must be offered at “traditional” times — breakfast before 9 a.m., and lunch between 10 a.m. and 2 p.m. Exceptions may be allowed when a school is operating at an out-of-the-ordinary time; for example, when a school district has responded to a shortage of classroom space by scheduling two sessions, and one of them convenes very early or late in the day. LEAs may request a variance from these times from the SA. Evening meals served to students in adult education courses, delayed diploma programs, or GED programs are not reimbursable.

Meals for Secondary Students Attending College

Work-study students and high school students who attend college under special study programs to gain both high school and college credit must be treated the same way as other students. Take-out meals may be served to these students and claimed for reimbursement. Providing these meals, however, is at the option of the participating school, since LEAs are only required to make meals available to eligible students who are present during the meal period.

Meals Outside School Hours/School Days

Meals served on weekends in boarding schools are reimbursable only in situations where the weekend is a bona fide extension of the weekday educational activities. Meals served by other schools on the weekend may be reimbursed if the occasion is not simply a school-affiliated extracurricular event or activity, such as football, band, or chorus, but an integral part of the curriculum. The decision as to whether an activity is an integral part of the curriculum must be made by the SA after a review of the situation with the school.

Meals Produced Outside the Normal Cafeteria Environment

Meals may be prepared and served outside the normal cafeteria environment (in a student-operated restaurant, as a classroom activity, etc.) and claimed for reimbursement. All of the standard program requirements must be met (menu planning, meal count by category at the point of service, proper records, restriction of FMNV, etc.).

Meals Served on Credit

The LEA may establish a written policy about charging meals. When the credit limit has been reached, extending additional credit for full or reduced-price meals may be declined.

Schools are not required to serve children who receive full or reduced-price meals but do not pay. Many LEAs have adopted a no-charge policy. This means that the child who comes to school without money or a lunch from home is given an alternate (partial) meal which is not claimed for reimbursement, or given an opportunity to call the parents so they may make provisions for a meal. Another alternative is to develop a controlled method for implementing limited charges to cover emergencies.

Meals Served to Continuous-School-Calendar Students

In schools which operate on a continuous school calendar, any meals served to students who are "off track" are not eligible for reimbursement. Students who participate in enrichment and special classes may be claimed for reimbursement. LEAs may be eligible to participate in the Summer Food Service Program (SFSP) or Seamless Summer Option of the National School Lunch Program (SSO), which would allow meals to be served to off-track students. For more information about this option, contact the SA.

Menu Choices

To provide variety and encourage consumption and participation, schools should, whenever possible, offer a selection of foods and types of milk for children to make choices. Milk is always to be offered as a separate food component/menu item.

Schools are encouraged to consider purchasing and offering whole grains whenever possible as a part of their efforts to promote healthy eating and improve nutritional well-being.

When a school offers more than one lunch menu, or a variety of foods and types of milk within the required meal pattern, all children must be allowed the same selections whether they are eligible for free or reduced-price meals or pay the full price. In instances where schools offer different priced meals, children who qualify for free or reduced-price meals must have a choice of any reimbursable meal regardless of the price to the paying child.

Menu-Planning Systems

See *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.

Milk Requirements and Recycling

The state sanitation code prohibits serving reconstituted dry milk in public eating establishments except as an ingredient in something cooked. If fresh milk is not available, ultra-high-temperature (UHT) milk must be used. (See **Exceptions to the Meal-Pattern Requirements.**)

Milk that has been served and taken to the dining area by a participant but not opened may not be retrieved and re-served (recycled). Milk is a perishable food, and cleaning the unopened container and re-chilling the milk will not render it safe.

Milk Standards

Milk means pasteurized fluid types of unflavored or flavored milk, low fat milk, skim milk, or cultured buttermilk which meet state and local standards. All milk must contain vitamins A and D at levels specified by the Food and Drug Administration. All meals claimed for reimbursement must offer students fluid milk in a variety of fat contents, and may offer flavored and or unflavored milk and lactose-free fluid milk (this provision applies only to the NSLP, not to the SBP of SMP). The type of milk does not affect the reimbursement rate. However, LEAs are responsible for making sure that the milk claimed for reimbursement meets state and local standards and that a variety of fat contents are offered.

If the LEA has chosen to accommodate a non-disability milk substitution, a nondairy milk substitute must meet the nutrient standards established in the final rule *Fluid Milk Substitutions in the School Nutrition Programs* (73 FR 52903, Sept. 12, 2008).

Monitoring

All LEAs with more than one site are required to monitor all sites annually before February 1. Ideally, the LEA will identify and correct any problems with site operations through these on-site reviews. The SA requires that the LEA document site monitoring. LEAs may choose the format they use to document the site monitoring. The Site Monitoring Form is available online at <http://www.schools.utah.gov/cnp/NSLP/default.asp>.

N

Nonpricing Programs

In a nonpricing program, all children are served the meal or milk without charge. The cost of the meal or milk, beyond the federal and state reimbursement, is borne by the LEA as an expense of operating the program.

Nonprogram Children's Meals

Meals served to children who are not enrolled in school may not be claimed for reimbursement, and the price charged must cover all costs on the same basis as for adults.

Children who are enrolled in another district and are in the school to participate in a special function (music, drama, debate, etc.) may be served a meal and claimed for reimbursement. Unless the school obtains approved eligibility from the student's school, or a new application, such meals may only be claimed at the paid rate. For audit, edit check and review purposes, meal count records should note that there were visiting students.

When children who attend year-round schools are on periodic vacations or off track, they are considered nonprogram and may not be claimed. If such children are attending educational enrichment courses or making up classwork, they may be claimed for reimbursement.

Nonreimbursable Meals

Reimbursement is available only for approved children's meals which meet program requirements. No other meals or food items are reimbursable. A la carte items cannot be used to make a meal reimbursable. For example, an a la carte milkshake purchased separately may not be combined with a hamburger on a bun, bought at the regular meal price, to make a reimbursable meal.

Nutrient Standards

The nutrient standards for healthy school meals were established by averaging the Recommended Dietary Allowances (RDA) for key nutrients for different groups of children. USDA-approved software has these levels built into the program. The nutrient standards do not set specific target goals for cholesterol, sodium and dietary fiber. LEAs will need to pay attention to these nutrients and dietary components. In Utah, the SA has set the target amounts of sodium at 1,000 milligrams or less per meal, cholesterol at 100 grams or less per meal and fiber at 7 grams or more per meal for all age or grade groups. The state of Utah has also set a recommendation that calories do not exceed a level of 120% of the federal target when menus are averaged over the course of a week. Nutrients are analyzed using USDA-approved software to determine the menu composition.

Weighted analysis of meals based on student selection is required by regulation; however, Section 110 of the Child Nutrition and WIC Reauthorization Act of 2004 extended the waiver of this requirement until September 30, 2010. (See **School Meals Initiative Review.**)

O

Offer Versus Serve

Offer versus serve is designed to reduce food waste and cost without jeopardizing the nutritional integrity of the meals served. It allows secondary school students and, when approved by the LEA, those in other grades to decline some foods they do not intend to eat. The choice to decline some meal components does not affect the cost of the meal, which must be priced as a unit. Where the offer versus serve provision is in place, it applies to all students receiving a reimbursable meal. (See *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.)

The LEA must notify the SA on the site application at CNPweb of schools implementing the offer versus serve option. Offer versus serve is mandatory at the secondary level.

The rules for offer versus serve are outlined in *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.

P

Preschool and Kindergarten Children

Preschool-age children may participate in the NSLP, SBP and ASSP if they are part of a program conducted in the LEA's facilities (e.g., preschool day care or Head Start), whether sponsored by the LEA or a nonprofit private organization. However, meals may not be claimed for reimbursement in the NSLP or SBP if the children are participating in the CACFP or SMP at the same time.

In some situations, kindergarten children do not normally participate in the meal program but may be occasionally invited to do so by the school. In such instances, those students from families with approved applications on file in the school must be served free or reduced-price meals as eligibility justifies. For kindergarten students without siblings in the same school, the school or district should send home an application in advance of the meal service or claim the meals at the paid rate. To prevent overt identification, it is recommended that an application be obtained at the beginning of the school year as it is with other children.

Pricing Programs

In a pricing program, children not eligible for free or reduced-price meals or free milk are charged an amount intended to make up the difference between the cost of the service and state and federal reimbursement. Meals must be priced as a unit and furnished without cost or at a reduced price to all children who qualify in accordance with the LEA's approved free and reduced-price policy statement.

A student's decision to decline food items (according to offer versus serve rules) or accept smaller portions may not affect the charge for breakfast or lunch. Items planned and served a la carte must be separately priced.

Private School Sponsorship

LEAs may sponsor eligible private schools and claim them as sites under their own agreement. The LEA must submit a copy of the agreement with the private school to the SA to have the private school added to its list of sites on CNPweb. The LEA assumes full liability and financial responsibility for the operation of the program in all schools under the agreement. This includes meeting all program requirements. Applications for free and reduced-price meals must be provided to all students. All qualified students must receive benefits.

To be eligible to participate in the NSLP, SBP, SMP and ASSP, private schools must meet the definition of a private school according to the SA and meet the requirements of nonprofit status as approved under Section 501(c)(3) of the Internal Revenue Code of 1986.

Partial implementation of the NSLP, SBP, or SMP is not allowed. On any day school is in session, the meal or milk service must be available to students.

Procurement Policies

Procurement means purchasing, renting, leasing, or otherwise acquiring supplies, services, or construction. Established procurement policies at federal, state, and local levels ensure fair and equal treatment of all persons and organizations that wish to conduct business with LEAs. Procurement policy is detailed in 7CFR Part 3016 for public agencies and in 7CFR Part 3019 for private nonprofit agencies. Many LEAs have established more restrictive procedures than required in federal regulation.

Public agencies must follow the minimum standards detailed in 3016.36(b-1); private nonprofit agencies must use 3019.40-.48. These regulations detail the procedures an LEA must follow during procurement. The requirements at the local and/or state level may be more restrictive (in which case, they must be followed), but if the local and/or state policies are less restrictive, the federal standards must be followed.

LEAs are cautioned to adhere strictly to the requirements of the procurement process (request for proposal or invitation to bid). Organizations, agencies, companies or individuals responding to the proposal or bid must also adhere to the process. LEAs must develop their own specifications (rather than relying upon the specifications from one potential contractor) in order to assure fair competition for awards. LEAs have broad discretion in gathering information for use in connection with procurements; however, information from potential bidders must be appropriately modified to develop tailored specifications. Otherwise, these potential bidders must be excluded from competing for such procurements. LEAs are prohibited from awarding contracts to potential contractors that drafted procurement documents.

Regulations governing all LEAs are contained in 7CFR Part 3017 (Government-Wide Debarment and Suspension) and 7CFR Part 3021 (Government-Wide Requirements for a Drug-Free Workplace). Review the regulations to assure the documents and procedures conform to the regulations.

If an institution purchases \$25,000 or more in goods and/or services from any individual, company or group, the documents used to contract with them must include a clause verifying that the contractor has not been excluded or disqualified from doing business with the federal government.

Failure to comply with specific solicitation and contract terms is a violation of the regulations requiring competitive procurements and contrary to good business practices. If an LEA discovers a contract which does not comply with the procedures detailed in the regulations, they may not extend or renew the contract, but must initiate a new procurement action at the end of the current contract period.

Several procurement rules which must also be followed are contained in 7CFR Part 210. Some of those requirements include:

“Buy American.” LEAs are required to purchase, to the maximum extent practicable, domestic commodities or products for use in program meals. “Domestic commodity or product” is defined as one that is produced in the United States and is processed in the United States substantially using agricultural commodities that are produced in the United States. “Substantially” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. This provision should be included in all bid specifications to ensure compliance. The provision applies to all funds in the food service account, not just federal reimbursement.

Locally Produced Foods. LEAs are encouraged to purchase locally produced foods to the maximum extent practicable. This does not absolve LEAs of their obligation to adhere to all applicable procurement requirements, that all purchases must be made competitively, consistent with all state and federal procurement laws and regulations. Purchases of this type would usually qualify as small purchases under procurement requirements, and therefore be made using informal procedures. LEAs should check with the Utah Department of Agriculture for more information on locally produced foods.

Geographic preference may be applied when procuring unprocessed locally grown or locally raised agricultural products. The institution responsible for the procurement may define the area for any geographic preference (e.g., state, county, region, etc.). Geographic preference may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised. For purposes of applying a geographic procurement preference in the Child Nutrition Programs, “unprocessed agricultural products” means only those agricultural products that retain their inherent character. The effects of the following handling and preservation techniques are **not** be considered as changing an agricultural product into a product of a different inherent character: cooling, refrigerating, freezing; size adjustment through size reduction made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; drying/dehydration; washing; the application of high water pressure or “cold pasteurization”; packaging (such as placing eggs in cartons) and vacuum packing and bagging (such as placing vegetables in bags); butchering livestock, fish and poultry; and the pasteurization of milk.

Donated Commodities. All federally donated commodities must accrue only to the benefit of the school food service.

Food Service Management Companies. The content of the request for proposals or invitation to bid and the contract is specified in the regulations. Proposed documents must be submitted to the SA prior to releasing for approval.

(See *Contracting with Food Service Management Companies: Guidance for School Food Authorities*, available online at <http://www.fns.usda.gov/cnd/guidance/FSMCguidance-sfa.pdf>.)

Program Application and Agreement

An application to participate in the NSLP, SBP, SMP and ASSP is available from the SA. After acceptance of the application, a permanent agreement between the SA and the LEA is signed. The agreement states that the LEA will administer the programs according to established rules, regulations, and guidelines of the USDA and the SA. For participation in NSLP or SBP or ASSP, CNPweb lists all sites under the LEA's jurisdiction where the program(s) will operate. The agreement may be amended as necessary, and an annual update of the information on CNPweb is required.

R

Records Availability

All accounts and records pertaining to the CNP must be made available to representatives of the SA and/or the USDA for audit or review at any reasonable time and place. Records must be retained for three years after the end of the fiscal year to which they pertain, unless an audit exception makes it necessary to hold them longer to resolve issues.

Reimbursable Meals

Meals that meet program requirements are eligible for federal financial assistance. A reimbursable meal is one:

- Served to children enrolled in the educational program of the LEA, or visiting from another school, and in attendance at the time of the meal service (including kindergarten children).
- Claimed in an approved eligibility category.
- Meeting the minimum meal pattern requirements for the program.

Reimbursement Categories

The USDA annually establishes national average payment rates for meals, which are intended to reflect the cost of operating the programs.

Lunch Reimbursement

General cash assistance (Section 4) is disbursed for all eligible lunches. Special assistance (Section 11) funds are paid for meals served free or at a reduced price to eligible children.

Utah law provides for a tax on the sale of wine and distilled liquor to administer a school lunch program in the public schools. Funds are disbursed according to the number of lunches claimed and may vary from month to month.

An additional two cents per lunch is available to LEAs that served 60 percent or more free and reduced-price lunches district-wide during the second preceding year.

Breakfast Reimbursement

Cash assistance is disbursed for all eligible breakfasts served according to the categories (free, reduced-price, paid) of the children served. No state funds are available for the SBP.

Breakfast Severe Need

Severe need payments may be made for free and reduced-price breakfasts served in selected schools. These payments are in addition to regular reimbursement. To qualify for the severe need reimbursement, the schools must meet the following criteria:

- The school is participating in or initiating a breakfast program.

- Forty percent or more of the lunches at the school in the second preceding year were served to students qualifying for free or reduced-price meals.

Contact your specialist regarding new schools located in the same geographic area as other facilities which have in the past qualified for severe need. When a majority of the students were transferred from severe need schools, new schools may demonstrate that they qualify for severe need reimbursement if they serve at least 40 percent of their lunches free or at a reduced price for the first three claims of the current year. Severe need reimbursements to these new schools will have retroactive effect encompassing the three months that were used to establish the school's eligibility.

Special Milk Reimbursement

Reimbursement at actual dairy cost per half-pint of milk is available under the "free milk" program, with approved applications filed with the LEA for each participating child. If children's eligibility is not determined, or the program is non-pricing, milk will be reimbursed at the annually established rate, which is less than the full cost of the milk. No state funds are available for this program. (See **Special Milk Program.**)

Residential Child Care Institutions (RCCI)

A residential child care institution is defined as any public or nonprofit private residential child care institution, or distinct part of such institution, which operates principally for the care of children and, if private, is licensed to provide residential child care services under the appropriate licensing code *except* for residential summer camps, which participate in the Summer Food Service Program. The term "residential" includes, but is not limited to, homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. A long-term care facility is a hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 or more days. For more information regarding these facilities, contact the SA.

S

Sanitation

In the storage, preparation, and service of food, schools must maintain proper sanitation and health standards in conformance with all applicable state and local laws and regulations. Further details are contained in the Utah Sanitation Code, which may be obtained from the local or state Department of Health.

Participating schools must request at least two food safety inspections each school year. Documentation of this request should be kept for three years plus the current year. The inspections must be conducted by a state or local governmental agency responsible for food safety inspections. Schools must post, in a publically visible location, a report on the most recent food safety inspection, and provide a copy of the food safety inspection report to a member of the public on request.

The SA is required to annually submit a report on food safety inspections to the USDA. To meet this requirement, LEAs are required to report their previous year's total number of health inspections on CNPweb.

LEAs may count food safety inspections conducted as a part of the Summer Food Service Program (SFSP) or Child and Adult Care Food Program (CACFP) as long as the inspection covers the same preparation facilities and similar food services.

Schedule Conflicts

Students who are not able to attend the regular meal period due to schedule conflicts must still have access to school meals. Arrangements must be made by the participating school.

School Meals Initiative (SMI) Review

LEAs have a responsibility to offer meals that are consistent with the goals of the Dietary Guidelines for Americans and the appropriate levels of recommended dietary allowances (RDA) for the specified nutrients and for calories. The SMI review determines compliance with these standards. The SA is required to conduct an SMI review of each LEA at least one time every five years.

The fundamental difference between reviews of nutrient-based systems and food-based systems is how the SA does the review. In nutrient-based systems, the SA reviews the nutrient analysis done by the LEA and how it was conducted, including a check of the source documents. For food-based systems, the SA actually conducts a nutrient analysis and must have access to all source documents and other information for an accurate analysis.

Once the actual review (and, if required, the nutrient analysis) is completed, the LEA must meet the nutrition standards, or the reviewer and the LEA must develop a corrective action plan which will lead the LEA into full compliance with the nutrition standards.

If an LEA fails to meet the terms of the corrective action plan the SA will determine whether the LEA is working in good faith toward compliance and, if so, may renegotiate the plan if warranted. However, if the LEA has not been acting in good faith to meet the terms of the plan and refuses to renegotiate the plan, the SA will determine whether a disallowance of reimbursement funds is warranted. (Also see **Nutrient Standards** and *A Menu Planner for Healthy School Meals*, available online at <http://www.fns.usda.gov/tn/resources/menuplanner.html>.)

Second Meals

It is the intent of the program to plan and prepare one lunch and/or breakfast per child per day. Second meals may not be claimed for reimbursement. Schools are cautioned not to plan and prepare second meals unless they intend to absorb the cost.

Special Assistance Certification and Reimbursement Alternatives

As an alternative to normal requirements for annual determinations of eligibility for free and reduced-price meals and daily meal counts by category at the point of service, three special provisions are available. In all of these provisions, it is important for the LEA to maintain the documents upon which eligibility is based (the IEFs) until three years after the use of the provision has expired (including subsequent extensions), or until any audit findings have been reconciled.

LEAs may implement these provisions on a school-by-school basis, for all schools in a district, or for a subgroup of schools within the district. Contact the SA for more information on qualifying and maintaining records using Provision 1, 2 or 3.

Provision 1

This provision reduces application burdens by allowing free eligibility to be certified for a two-year period. In schools where at least 80 percent of the children enrolled are eligible for free or reduced-price meals, annual notification of program availability and certification of children eligible for free meals may be reduced to once every two consecutive school years. All other households must be provided with a meal application and allowed to apply for benefits each school year. There is no requirement to serve meals at no charge to all students.

Public notification and certification procedures are subject to the usual requirements, with one exception: children certified for free meals during the first school year need not be publicly notified or certified again for the next year. All other children must be notified and certified according to standard program requirements. The LEA should review its notification system carefully to ensure that no child is overtly identified by the method it implements.

Schools must continue to record the number of free, reduced-price, and paid meals served as a basis for calculating reimbursement claims each school year.

An LEA must submit a separate meal policy statement which includes a list of schools participating and their initial date of involvement. A signed statement by an LEA official must be included, certifying that the schools listed have met the basic eligibility requirements. The LEA is responsible for maintaining documentation to support the 80 percent eligibility for free and reduced-price meals and making it available to the SA upon request.

Provision 2

This provision reduces application burdens and simplifies meal counting and claiming procedures. It allows schools to establish claiming percentages and to serve all meals at no charge for a four-year period.

Schools must serve meals to all participating children at no charge for a period of four years. During the first year, or base year, the school makes eligibility determinations and takes meal counts by type. During the next three years, the school makes no new eligibility determinations and counts only the total number of reimbursable meals each day. Reimbursement during these years is determined by applying the percentages of free, reduced-price and paid meals served during the corresponding month of the base year to the total meal count for the claiming month. The base year is included as a part of the four years.

At the end of each four-year period, the SA may approve four-year extensions if the income level of the school's population remains stable, as determined by census or other approved socioeconomic data.

Schools selecting this alternative must pay the difference between federal reimbursement and the cost of providing all meals at no charge. The money to pay for this difference must be from sources other than federal funds.

If socioeconomic data indicate a change in socioeconomic conditions, the school may initiate a new four-year cycle by making new free and reduced-price determinations and developing new claiming percentages to establish a new base year.

The socioeconomic data to be used must be approved by the USDA. Approved sources include local data developed or collected by city or county zoning and economic planning offices, unemployment figures for the school's area of attendance, or local food stamp certification information.

A school may provide public notification of the free and reduced-price policy only at the beginning of the four-year period or, if it chooses, may publicly notify parents more often.

The LEA must submit a separate meal policy for Provision 2 schools. The statement should include a list of schools participating and their initial date of involvement. The LEA is responsible for maintaining documentation of monthly percentages calculated for each meal type (free, reduced-price, paid) at each school during the first school year to be used in claiming reimbursement during subsequent years. Upon request, these figures must be made available to the SA.

The LEA may extend this coverage to all schools or a subgroup of schools within an LEA and develop comprehensive claiming percentages.

Also see *Provision 2 Guidance*, available online at <http://www.fns.usda.gov/cnd/governance/prov-1-2-3/prov2guidance.pdf>.

Provision 3

This provision reduces application burdens and meal counting and claiming procedures. It allows schools to simply receive the same level of federal cash and commodity assistance each year, with some adjustments, for a four-year period.

Schools must serve meals to all participating children at no charge for a period of four years. These schools may not make additional eligibility determinations. Instead, they receive the level of federal cash and commodity support paid to them for the last year in which they made eligibility determinations and meal counts by type; this is the base year. The school may charge reduced-price and paying students the appropriate price for meals during the base year. For each of the subsequent four years, the level of federal cash and commodity support is adjusted to reflect changes in enrollment and inflation. The base year is not included as part of the four years.

At the end of each four-year period, the SA may approve four-year extensions if the income level of the school's population remains stable. This determination is based on approved socioeconomic data submitted by the school to the SA. These data are the same as those listed under Provision 2. Equivalent data must be used for both the base and current year.

Schools electing this alternative must pay the difference between federal reimbursement and the cost of providing all meals at no charge. The money to pay for this difference must be from sources other than federal funds.

If there is a change in the income level, a new base year may be established by making new free and reduced-price eligibility determinations and taking daily meal counts by eligibility category to set a cash level for the next four-year cycle. Students not eligible for free meals must be charged during the base year.

LEAs using this provision may develop a comprehensive claiming percentage for a subgroup of schools within the district.

Special Milk Program

All public and nonprofit private schools which do not participate in the NSLP, the SBP, the CACFP or the ASSP, or where enrolled children do not have access to these programs, may participate in the SMP, including split-session kindergartens and pre-kindergartens. To participate in the SMP, LEAs need to:

- Notify the SA on Schedule A of their intent to implement the program.
- Indicate whether a pricing or nonpricing program will be implemented and whether the free milk option will be implemented.

Program Operation

Milk may either be reimbursed at the regular (paid) rate or, under the free milk option, at full dairy cost for eligible children. The reimbursement rate for milk served in nonpricing programs and to non-needy children in pricing programs is set annually and is less than the actual cost of the milk. In a pricing program, children who qualify must be provided milk at no cost. To qualify for free milk, a free or reduced-price meals/milk application form must be completed by the child's family or guardian and approved by the LEA.

The LEA will receive reimbursement for each half-pint of milk served to children. There is no limit on the number of half-pints served, and they may be split for younger children. If food is served with the milk, the LEA must pay for it with other funds; there is no reimbursement available for food. Under a pricing policy, the rate for additional food may be set at whatever amount is needed to defray costs, but eligible (free) children may not be charged.

If pricing with the free milk option is selected, a daily count by eligibility category is required. With the nonpricing program, only a count of the total half-pints served each day is required.

The price charged for milk sold to adults is established by the LEA. However, the charge must cover all costs (labor, price paid to the milk vendor, administration, etc.). Reimbursement cannot be claimed for milk served to adults. (See *Special Milk Program Fact Sheet*, available online at <http://www.fns.usda.gov/cnd/milk/AboutMilk/SMPFactSheet.pdf>.)

Pricing Structure

The LEA may elect to have a nonpricing or pricing program for the SMP. In a pricing program, the free milk option must always be available (by default, due to siblings who are qualified to receive free meals).

Nonpricing. Milk is provided to all children without charge. The cost of the milk, beyond the federal reimbursement rate, is borne by the LEA. LEAs electing a nonpricing program must submit a Nonpricing Milk Policy Statement.

Pricing. All children are charged a price per half-pint which is established locally. The price paid by the children reflects the difference between the federal reimbursement rate and the cost of the milk. LEAs electing a pricing program must submit a Pricing Milk Policy Statement.

Any school which operates a pricing program must provide free milk to eligible children. Applications for free milk must be distributed to all students and completed by their parents or guardians. LEAs electing to provide free milk must submit a free milk policy statement and assure nondiscrimination. If the school offers both the NSLP and SBP and a SMP, it is considered a denial of benefits if free milk is not made available to all who qualify. All children in the same household must receive equal benefits.

Record Keeping

All records of the SMP must be kept for three years following the end of the fiscal year to which they pertain. The following records must be available for audit and review:

- A daily record of the number of half-pints of milk served to children. Split cartons of milk may be claimed, in which case the number of half-pints claimed will be less than the number of children served. Children may drink more than one half-pint per day, and milk may be offered more than once a day.
- The number of half-pints of milk served free to needy children. This information must be recorded daily by child at the point of service, avoiding overt identification of the child.
- An accounting of milk sold to adults.
- Invoices or billing for milk which justifies the amount claimed for reimbursement.
- Income accruing as a result of payments by children and adults and federal reimbursement.
- All applications for free milk, both approved and denied.

Student, Parent, and Community Involvement in School Food Programs

The LEA must promote activities to involve children and parents in the meal programs. These activities may include menu planning, enhancement of the eating environment, program promotions, and related student/community support activities. This requirement applies to all programs, including those contracted to school FSMCs and LEAs experiencing management problems.

The school food service programs can also be used to teach children about good nutrition practices. The school faculty and the general community should be encouraged to engage in activities to enhance the programs.

Students Working in the Meal Service

Recipients of free and reduced-price meals may not be required to work for those benefits; however, they are not prohibited from voluntarily working in the lunchroom.

Student Workers' Meals

LEAs may serve meals to student workers at no cost; however, these meals must be claimed in the student's appropriate eligibility category, and the students should go through the point of service to assure their meals are reimbursable.

T

Team Nutrition

Team Nutrition is an initiative of the USDA Food and Nutrition Service to support the Child Nutrition Programs through training and technical assistance for food service, nutrition education for children and their caregivers, and school and community support for healthy eating and physical activity.

Team Nutrition's goal is to improve children's lifelong eating and physical activity habits by using the principles of the *Dietary Guidelines for Americans* and the Food Guide Pyramid.

HealthierUS School Challenge (HUSSC)

The HealthierUS School Challenge (HUSSC) was established to recognize schools that are creating healthier school environments through their promotion of good nutrition and physical activity. Four levels of superior performance are awarded: Bronze, Silver, Gold, and Gold of Distinction. Any Team Nutrition School may apply for the HUSSC award. The criteria for each level of recognition can be found at <http://www.fns.usda.gov/tn/healthierus/index.html>.

Technical Assistance and Training

Technical assistance and training allow the SA to address specific problems or requests. A program may need attention because of needs or goals established by the LEA, SA and/or USDA. Training is available upon request from the LEA or by the CNP specialist assigned to the LEA or as the result of a CRE or audit finding.

Technical assistance may include monitoring specific programs. The critical areas, as defined under the CRE, may be briefly monitored to assure program integrity and protect the LEA from developing large overclaims in the years between reviews.

Transported Meals

Transported meals are defined as unitized individual meals, bulk items transported from a central kitchen combined with partial preparation at the receiving satellite, or a combination of these. Meal accountability does not change just because food is transported. Documentation of compliance, along with the meal count, must be available.

The Transport Record, available online at <http://www.schools.utah.gov/cnp/NSLP/default.asp>, provides a means of keeping track of this information.

U

USDA Foods

Participating LEAs are expected to accept and use, in as large quantities as possible, foods donated by the USDA for the NSLP. While USDA Foods are not allocated for the SBP, their use in the program is authorized; however, additional USDA Foods will not be provided to replace USDA Foods used in the preparation of breakfasts.

When USDA Foods are received by the LEA, they become the property of the LEA and should be accounted for in the LEA's financial management system as an asset. When a product loss occurs, the LEA is not obligated to report the losses to the SA. However, the LEA remains responsible for ensuring that all nonprofit food service resources are safeguarded, and is reminded that any misuse of nonprofit food service resources is subject to criminal prosecution.

Transferring of USDA Foods may still occur; however, arrangements will be made at the local level. It will be the responsibility of the LEA to recoup the transferred product value.

USDA Donated Foods cannot be delivered directly from the state-contracted warehouse or from a processor to a commercial vendor, as this would define the vendor as a "processor" and make it subject to the processing requirements in Subpart C of Part 250. Donated foods can be delivered to the LEA or to a commercial storage facility that is not affiliated with the vendor preparing the meal. If the LEA cannot obtain a commercial storage facility to properly store and account for the donated food, or they cannot provide proper storage at their site, they have the option of refusing the USDA Foods.

V

Vended Meals

LEAs without the resources to prepare meals on site have the option of contracting with other nonprofit LEAs or for-profit agencies to provide meals for the National School Lunch Program.

When contracting with a for-profit agency, LEAs must follow proper procurement procedures (see **Procurement Policies**). LEAs wishing to contract with for-profit vendors must submit their Request for Approval (RFP) or Invitation to Bid (ITB) to the SA for approval before the documents are publically announced per 7 CFR 210.21(c)(1). Any LEA attempting to contract with the SA in order to operate the NSLP will be unable to enter an agreement until proper procurement procedures have been followed.

LEAs contracting with vendors are also encouraged to include an economic price adjustment clause (escalator) in contract, and to enforce the terms of the clause and demand price reductions when appropriate.

Vending Machines

Vending machines may be used to sell foods that are not part of the reimbursable meal (a la carte items) in the dining or food service areas as long as profits accrue to a nonprofit LEA account.

Foods of minimal nutritional value may not be sold in the food service or dining area during the meal periods. If vending machines are used to sell foods of minimal nutritional value, those foods are prohibited from being sold in the food service area during the meal periods. Some LEAs turn vending machines off during meal periods. This is satisfactory, because the vended items are not being sold during the prohibited times.

All areas where reimbursable meals are consumed or sold are considered part of the food service area. (See **Foods of Minimal Nutritional Value**.)

Vending machines may also be used to provide reimbursable meals. Any vending machine that provides a reimbursable school meal is subject to all program regulations and represents an extension of the school food service area. Therefore, school meal vending machines are subject to the same procedures, menu planning requirements, competitive food rules, and offer versus serve requirements that are applicable to meals offered on a service line with a cashier.

Prior to the use of vending machines to serve reimbursable meals, an LEA must notify the SA of their intent to do so.

Verification of Eligibility for Free and Reduced-Price Meals

Verification is the confirmation of eligibility for free or reduced-price meal benefits. Verification is not required for households whose eligibility has been directly certified by state or local agencies responsible for the administration of the Food Stamp Program, Family Employment Program, or the Food Distribution Program on Indian Reservations, or for children certified as homeless, migrant or runaway. LEAs must verify the income information of a sample of approved applications on file as of October 1 of each year. Responsibility for verification may be assigned at the LEA level or taken at each individual school. Special Provision schools are exempt from verification except during the years applications are taken (base years).

Households must provide documentation of income for any point in time between the month prior to the application and the time the household is required to provide income documentation. This supersedes the information given in the *Eligibility Manual for School Meals*, which instructs that the most recent month for which materials are available be verified.

Verification may begin any time after approval of an application. The minimum verification requirements must be met by November 15. The LEA may find it possible to anticipate or project the number of approved applications which will be on file on October 1 and begin verification as soon as the approval process has been completed.

If verification will not be completed by November 15, a request for an extension of the deadline must be submitted to the SA (the request should be submitted prior to that date). The request should include the name, address, and telephone number of the school district; the name and title of the verification official; the date by which the school district expects to complete verification; a specific description of the reason why the school district is unable to complete verification on time; and the signature of a district official. Requests for extension of the verification deadline may occur when there are natural or other disasters which damage or destroy buildings or records, during strikes, or because of sudden absences due to illness, injury, death, or the resignation of the verification official.

All LEAs must use basic verification during their first year of operation. LEAs may be able to qualify for alternative sample sizes if they achieve a non-response rate of 20 percent or lower. Contact the SA for more information on this alternative.

A full description of the procedures to be followed for verification is included in the *Eligibility Manual for School Meals*, available online at <http://www.fns.usda.gov/cnd/Governance/notices/iegs/EligibilityManual.pdf>.

LEAs must track a variety of information, including the number of students approved for benefits on each verified application; the original basis for approval of the application; the status of the application following verification; and the number of applications and students from households who do not respond to the original request for verification, but

subsequently reapply (supplying the appropriate documents to verify eligibility) and are approved for benefits by February 15. A summary of verification must be submitted yearly via CNPweb by November 15, and a final report of verification must be submitted yearly via CNPweb by March 1 of each year. For more information regarding reporting requirements, contact the SA.

GLOSSARY OF ABBREVIATIONS

Abbreviations are frequently used throughout this manual or in other settings. This glossary will help you become familiar with any which may be new to you.

ADA	American Dietetic Association
ADP	Average daily participation
AMS	Agricultural Marketing Service (USDA)
ANC	Annual National Convention for SNA
ANSMP	Assisted nutrient standard menu planning
ARPA	Agricultural Risk Protection Act of 2000
ASSP	After School Snack Program
CA	Corrective action
CACCI	Child and adult care center institution
CACFP	Child and Adult Care Food Program
CAP	Corrective action plan
CCC	Child care center
CFR	Code of Federal Regulations
CNA	Child Nutrition Act
CNP	Child Nutrition Programs
CPA	Certified public accountant
CRE	Coordinated review effort
CTV	Consulting team visit
DA	Distributing agency
DGA	Dietary Guidelines for Americans
DHS	Department of Human Services (Utah)
DOH	Department of Health (Utah)
DWS	Department of Workforce Services (Utah)
EdNet	Education network
EdPAC	Education Purchasing Advisory Committee
F/RP	Free/reduced-price (meal eligibility)
FBMS	Food-based menu system
FDCH	Family day care home
FDP	Food Distribution Program
FDPIR	Food Distribution Program on Indian Reservations
FEP	Family Employment Program (Utah term for TANF)
FFVP	Fresh Fruit and Vegetable Program
FNS	Food and Nutrition Service (USDA)
FNSRO	Food and Nutrition Service Regional Office (Mountain Plains, Denver)
FSA	Farm Service Administration (USDA)
FSIS	Food Safety and Inspection Service (USDA)
FSMC	Food service management company
FY	Fiscal year

GAAP	Generally accepted accounting principles
GAO	Government Accounting Office
HACCP	Hazard Analysis Critical Control Point
IEF	Income Eligibility Form
KCCO	Kansas City Commodity Office (USDA)
LAC	Legislative Action Conference (SNA)
LEA	Local Education Agency
ME	Management evaluation
NET	Nutrition education and training
NFSMI	National Food Service Management Institute
NRC	National Research Council
NSLA	National School Lunch Act
NSLP	National School Lunch Program
NSMP	Nutrient standard menu planning
OANE	Office of Analysis, Nutrition and Evaluation (USDA)
OCR	Office of Civil Rights (USDA)
OIG	Office of Inspector General (USDA)
OMB	Office of Management and Budget
OVS	Offer versus serve
PAL	Planned Assistance Level (commodities)
PNP	Private nonprofit
POS	Point of service
RA	Recipient agency
RBRNSLA	Richard B. Russell National School Lunch Act
RCCI	Residential child care institution
RDA	Recommended dietary allowance
RDI	Recommended dietary intake
SA	State agency (the USOE and equivalents in other states)
SAE	State administrative expense
SBP	School Breakfast Program
SD	Serious deficiency (or seriously deficient)
SEA	State Education Agency
SFA	School Food Authority (also see Local Educational Agency or LEA)
SFNS	School Foodservice and Nutrition Specialist (SNA credential)
SFSP	Summer Food Service Program
SIS	Student Information System
SK/FB	Soup kitchens/Food Banks
SMI	School Meals Initiative
SMP	Special Milk Program
SNA	School Nutrition Association
SNAP	Supplemental Nutrition Assistance Program (USDA)
SNAU	School Nutrition Association of Utah
SNP	School Nutrition Programs
SSO	Seamless Summer Option of the National School Lunch Program
STAR	State Technical Assistance Review

SY	School year
TANF	Temporary Assistance for Needy Families (FEP in Utah)
TEFAP	The Emergency Food Assistance Program
TN	Team Nutrition (USDA)
UHT	Ultra high temperature
USDA	United States Department of Agriculture
USOE	Utah State Office of Education
VPP	Vegetable protein products

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