



SUMMER FOOD SERVICE PROGRAM CLARIFICATION OF FEDERAL POLICY

In Texas, organizations contracting directly with the Texas Department of Agriculture (TDA) to operate nutrition programs federally funded through the United States Department of Agriculture (USDA) are called Contracting Entities, or CEs. The Summer Food Service Program (SFSP) is a federally funded nutrition program and, as such, sponsors are considered CEs. CEs operating the Seamless Summer Option (SSO) should reference the Administrator's Reference Manual (ARM) Section 12, Seamless Summer Option, for guidance.

Each year, the USDA publishes the SFSP *Administrative Guidance for Sponsors* (AGS) which provides federal policy, program guidance and information for all CEs that participate or plan to participate in SFSP. TDA occasionally issues a Clarification of Federal Policy, such as this one, to supplement and clarify federal policy set out in the AGS.

USDA Demonstration Project for Non-Congregate Feeding for Outdoor Summer Feeding Sites Experiencing Excessive Heat

The USDA has issued policy memorandum [SFSP 14-2014, Demonstration Project for Non-Congregate Feeding for Outdoor Summer Sites Experiencing Excessive Heat Revised Q & As.](#)

This policy memorandum extends the USDA's demonstration project as articulated in policy memoranda SFSP 10-2013 and SFSP 10-2013 REVISED, *Demonstration Project for Non-Congregate Feeding for Outdoor Summer Sites Experiencing Excessive Heat Revised Q & As.* SFSP 14-2014 authorizes SFSP CEs to operate TDA-approved outdoor feeding sites as non-congregate sites on days when the area is experiencing excessive heat and the CE does not have temperature controlled alternative sites to serve congregate meals. "Congregate" meals are those served and consumed on-site, while "non-congregate" meals are those served to children who take the provided meals off-site.

Non-congregate meal service is permitted only on days when the National Weather Service (NWS) has issued: (i) a Heat Advisory, (ii) an Excessive Heat Warning, or (iii) an Excessive Heat Watch for the area in which a TDA-approved outdoor feeding site is located. CEs that operate outdoor sites with available temperature-controlled alternative sites are not eligible to be reimbursed for non-congregate meal service, and, to receive reimbursement under the SFSP, must serve meals at a temperature-controlled alternative site when the area is experiencing excessive heat.

As noted above, during a non-congregate meal service, children may take provided meals off-site; instead of consuming meals on-site (congregate).

Notification of Participation

CEs must notify TDA of their intent to participate in the demonstration project and must identify those outdoor and mobile feeding sites lacking temperature-controlled alternative sites they intend to include in this demonstration project **prior to serving non-congregate meals**. A CE must declare intent to participate in the Texas Unified Nutrition Programs System (TX-UNPS) in the CE Application, Question #30, under the section titled “General Questions,” and in the applicable Site Application, Question #39, Part 2, under the section titled “Site Operations.”

Declaration of intent to participate in this demonstration project gives a CE the option to offer non-congregate meal service on days which meet the above-stated NWS criteria for excessive heat but does not obligate a CE to offer a non-congregate meal service. If a CE does operate non-congregate feeding on any day, at any site that does not have intent declared and approved in TX-UNPS, all meals served on that day at that site will be disallowed. **A CE must have intent declared and approved prior to operating non-congregate feeding.**

Participation Requirements

CEs participating in non-congregate meal service must continue to maintain compliance with all other program regulations. CEs must ensure food safety during meal preparation and delivery of meals. Since meals will be consumed off site and possibly at a later time during that day, CEs must carefully consider all food safety issues and risks. Therefore, CEs participating in the demonstration project should prepare a food safety plan or alternate menu using non-perishable foods specifically for days when non-congregate meal service takes place, to ensure the meal service will be conducted safely.

CEs must keep accurate records of meals served for each site and only one meal may be provided to each child present at the meal site during each approved meal service. CEs will not be reimbursed for second meals. Meals may not be provided to adults or other children to take to children not present at the site. All meal counting, meal claiming, CE monitoring and oversight requirements, and TDA monitoring and oversight requirements apply to sites that serve non-congregate meals. CEs must ensure that caregivers, children and parents are aware of the type of meal service available at each site, whether non-congregate or congregate, on each day of meal service. The CE may not shorten or lengthen meal times on days when non-congregate meal service is utilized.

CEs serving non-congregate meals at a site experiencing excessive heat must also maintain documentation of the official Heat Advisory, Excessive Heat Warning, or Excessive Heat Watch issued by the NWS for the area in which the site is located for all days non-congregate feeding is utilized. CEs must print or obtain an electronic copy of the NWS notice on the public web found at <http://www.weather.gov/> for the day the Heat Advisory, Excessive Heat Warning or Excessive Heat Watch is issued. Documentation of high temperatures or of a certain heat index does not replace the documentation of an official heat advisory, excessive heat warning or excessive heat watch issued from the NWS.

Reporting Dates and Meal Counts by Site for Non-Congregate Feeding

At the end of each month, for each site where non-congregate meals were served, CEs must report the total number of **non-congregate** meals served by using the Non-Congregate Feeding Data Submission Form found in TX-UNPS “Download Forms.” Information on this form must be reported for each individual site that served non-congregate meals on the reported date.

After completion of the Non-Congregate Feeding Data Submission Form, CEs should file claims in TX-UNPS in accordance with standard procedures, claiming ALL meals served, congregate and non-congregate, during the claiming period.

Non-Congregate Feeding for Summer Feeding Sites Experiencing Exceptional Circumstances

The USDA also may extend this demonstration project to other situations where exceptional circumstances make congregate feeding impractical at an approved meal site. **Requests based on exceptional circumstances other than excessive heat will be considered on a case-by-case basis and must be approved in advance by USDA via TDA.** CEs wishing to serve non-congregate meals at a site due to exceptional circumstances other than excessive heat should submit their request, in writing, to the Food and Nutrition Division Specialist, as follows:

- Email to:
SNPWaivers@TexasAgriculture.gov
Subject: Non-Congregate Feeding (CE name)
- Fax to:
(888) 203-6593
ATTN: Coordinator for Food & Nutrition Special Projects
Subject: Non-Congregate Feeding (CE name)
- Mail to:
Texas Department of Agriculture
Food and Nutrition
ATTN: Food and Nutrition Division Specialist – Melissa Dozier Gonzales
P.O. Box 12847
Austin, Texas 78711
- Overnight to:
Texas Department of Agriculture
Food and Nutrition
ATTN: Food and Nutrition Division Specialist – Melissa Dozier Gonzales
1700 North Congress Avenue
Austin, Texas 78701

To reiterate, the above referenced approval process is for obtaining permission to serve non-congregate meals at a site due to exceptional circumstances other than excessive heat. TDA may deny a request for service of non-congregate meals due to exceptional circumstances based on concerns related to health, safety, and integrity related to non-congregate feeding.

CE requests based on exceptional circumstances other than excessive heat should, at a minimum, provide the following information:

- A list of total number of overall sites sponsored.
- A list of specific sites (including the names and addresses) the CE would like to serve non-congregate meals due to exceptional circumstances other than excessive heat.
- A detailed description of the exceptional circumstance that has created the need for non-congregate feeding.
- Justification of the need for the exemption from the congregate feeding requirement.
- A detailed description of how operations will change on days when non-congregate feeding is used, including the meal delivery plan for each site included in the request.

- The exemption periods (provide specific dates) for which non-congregate feeding is being requested at each site. Include a detailed justification for each exemption period longer than one day in duration. Exemption periods longer than one day in duration will be considered, but must be clearly justified.
- A detailed description of how, for each site requested, the utilization of non-congregate feeding and the proposed changes in operations will resolve the exceptional circumstances which created the need for non-congregate feeding.
- A detailed description of the documentation the CE intends to use to demonstrate that the exceptional circumstances existed on days non-congregate feeding was utilized, including where that documentation will be kept for record-keeping purposes.
- A detailed description of how the CE will ensure only one meal is served to each eligible child.

For a CE requesting permission to serve non-congregate meals at a site due to exceptional circumstances related to safety concerns, the USDA requires evidence that the CE consulted with law enforcement authorities regarding the safety concern. The CE must obtain and submit documentation of law enforcement's recommendation(s) for the safe provision of meals at the site. Accordingly, CE requests must include:

- Documentation from a state, county, or local law enforcement agency having jurisdiction over the address at which the each site subject to the request is located containing the following information::
 1. The name of the CE making the request.
 2. The name of the state, county, or local law enforcement agency.
 3. A list of all requested sites, including the names and physical addresses, which are in that law enforcement agency's jurisdiction.
 4. An attestation, or signed letter or statement, from a duly authorized representative of the applicable state, county, or local law enforcement agency that the sites listed meet ALL of the following criteria:
 - a. The law enforcement agency deems the listed sites UNSAFE for the congregate feeding of children.
 - b. The law enforcement agency believes it is possible to safely distribute meals outdoors to children in a non-congregate fashion.
 - c. A list of sites, if any, at which the law enforcement agency deems UNSAFE for the congregate feeding of children AND at which the law enforcement agency believes it is NOT possible to safely distribute meals outdoors, along with the law enforcement agency's recommendations regarding safe alternative meal delivery plans (e.g. indoors, door-to-door).
 5. The name, rank, title/official position, badge number (if applicable), and contact information of the applicable state, county, or local law enforcement agency official who composed the correspondence.
 6. Signature and date of signature of the state, county, or local law enforcement agency official who composed the correspondence.

A template of the law enforcement agency declaration is available on our website at www.squaremeals.org/NonCongregateFeeding in the section titled *Non-Congregate Feeding for Circumstances Other Than Excessive Heat* under the heading "Additional Information for Requests for Participation Due to Safety Concerns."

TDA or the USDA may determine that more information is required before a request to serve non-congregate meals at a site based on exceptional circumstances other than excessive heat can be processed. If more information is required, TDA will request the information from the CE and once the CE has provided the requested information to TDA, the information will be considered.

TDA will notify CEs of approval or denial of request to serve non-congregate meals based on exceptional circumstances. Guidance on documentation and record-keeping requirements will be provided by USDA on a case-by-case basis **upon approval** of a request to serve non-congregate meals at a site due to exceptional circumstances other than excessive heat. **If a CE serves non-congregate meals based on exceptional circumstances prior to approval by USDA, all non-congregate meals served will be disallowed.**

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