Texas Department of Agriculture

Child and Adult Care Food Program – At-risk Afterschool Care Centers Handbook

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Child and Adult Care Food Program – At-risk Afterschool Care Centers Handbook

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Introduction

1100 Program Description

The U.S. Congress originally established the Child and Adult Care Food Program (CACFP) in 1968 as the Child Care Food Program. The purpose of the CACFP is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

Initially, the CACFP provided reimbursement for meals served to children in day care centers, settlement homes, and recreational centers in low-income areas where large numbers of working mothers resided. The program was later extended to day care provided in:

- Nonprofit child care and adult day care centers
- Certain for-profit child care and adult day care centers
- Day care homes for children

The National School Lunch Act, as amended, authorizes federal assistance to states that administer the CACFP. States may use the assistance to help start, maintain, and expand nonprofit food services for children enrolled for child care in nonresidential institutions.

This handbook explains program requirements and protocols that a contracting entity (CE) must follow while operating a nonprofit food service in the CACFP.

1200 Administration

The Texas Department of Agriculture (TDA) has an agreement with the United States Department of Agriculture (USDA) to administer the CACFP in Texas, and does so in accordance with federal and state requirements. These requirements can be found in the:

- Code of Federal Regulations (CFR) at 7 CFR Part 226
- Texas Administrative Code (TAC) at Title 4, Part 1, Chapter 25
- CACFP Handbooks

TDA administers the CACFP through several Food and Nutrition Community Operations Field offices statewide. TDA views its relationship with CEs as a partnership.

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A Community Operations Field office is assigned to each CE and potential CE based on the geographic area in which its primary business office is located, and provides oversight to ensure CEs comply with Program requirements. Additionally, each CE is assigned to an Education Service Center (ESC) office, which provides technical assistance to CEs and offers Program trainings which CEs can attend to understand and ensure compliance with Program requirements.

CEs comply with federal and state requirements in their operation of the Program and must ensure their sites do so as well (if a sponsoring organization). Together TDA and CEs ensure efficient and effective use of taxpayer dollars in providing nutritious meals to participants and assisting Texans in living a healthy lifestyle.

1300 Other Programs

In addition to the CACFP, TDA administers the following USDA nutrition programs:

- National School Lunch Program
- School Breakfast Program
- Special Milk Program
- Summer Food Service Program
- Food Distribution Program
- The Emergency Food Assistance Program
- Commodity Supplemental Food Program (in limited areas only)
- Senior Farmers' Market Nutrition Program (in limited areas only)
- Fresh Fruit and Vegetable Program
- Farmers Market Nutrition Program

If an organization is approved to participate in more than one program at the same time, it must ensure that it:

- Do not claim the same meal(s) for a participant in multiple programs.
- Do not serve the same meal(s) to a participant in multiple programs.
- Maintain separate records for each program.
- Attribute costs to the appropriate program.

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1400 Funding

USDA monies are used to fund certain costs associated with food services provided to children.

USDA monies may be used to:

- Reimburse CEs for part of the cost of serving meals and snacks to children at eligible child care centers/sites.
- Reimburse CEs for the expense associated with obtaining an approved audit.
- Fund advance payments.

1500 Appeals

A CE has the right to appeal certain actions TDA takes that adversely affects its claims or participation in the CACFP. Refer to Section 8000, *Denials, Terminations and Appeals*, for additional information regarding appeal rights.

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Eligibility and Application Requirements

At-risk afterschool care centers can participate in the CACFP (Program) through a contract directly with TDA (known as an independent center or a sponsoring organization (sponsor)) or under the auspices of a sponsor. All organizations that contract with TDA to participate in the Program, whether an independent center or sponsor, are referred to as contracting entities (CEs). At-risk afterschool care centers that participate under the auspices of a sponsor are referred to as sites.

By signing the agreement to participate in the Program, CEs accept final administrative and financial responsibility for the operation of the Program, and CEs that are sponsors also accept final administrative and financial responsibility for the sites they sponsor.

A sponsor may manage Program activities in one or more sites. It may sponsor similar sites, such as day care homes, child care centers or adult day care centers simultaneously, but must submit a complete application for each type of site.

NOTES:

- **Organizations that own two or more centers (known as affiliated) or organizations that manage the Program in one or more centers that are not owned by the organization (known as unaffiliated) are considered sponsoring organizations in the** Program**.**
- **For-profit organizations may not sponsor unaffiliated sites.**

Refer to Section 9000, *Terms, Definitions and Acronyms*, of this handbook for a definition of independent center, sponsoring organization, affiliated site and unaffiliated site.

Potential CEs must submit an application for the Program Year (PY) in which they intend to begin their participation. Each year CEs will be required to submit a renewal application (also known as a continuing application).

CEs that withdraw or terminate their participation in the Program at any time and later want to resume participation must complete a new application.

The at-risk afterschool care center subset of the Program is intended to:

- Provide a safe place for school aged children to go after school (those that wouldn't otherwise have child care);
- Incorporate educational and enriching activities;

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- Minimize the risk of those children becoming involved in counterproductive and potentially dangerous activities;
- Provide an afterschool snack and/or supper meal as an additional benefit.

2100 Eligibility

At-risk afterschool care centers (public institutions, nonprofit and for-profit organizations) must meet the following criteria:

- Be licensed by federal, state or local authorities to provide child care, or exempt from licensure (and has documentation of exemption when required);
- If a nonprofit, have tax-exemption under 501(c)(3) of the Internal Revenue Code of 1986.
- If a for-profit child care center, outside-school-hours care center, or at-risk afterschool care center, demonstrate that either one of the below conditions was true during the month preceding initial application or renewal:
    - 25% of the enrolled children *or* 25% of the licensed capacity (whichever is less) are eligible for free or reduced-price meals; **or**
    - 25% of the enrolled children *or* 25% of the licensed capacity (whichever is less) receive Title XX benefits and the center receives compensation from amounts granted to Texas under Title XX;
- Operates an eligible after school program. An eligible afterschool program is one that:
    - Is organized primarily to provide care for children after school or on weekends, holidays, or school vacations during the regular school year;
    - Provides children with regularly scheduled activities in an organized, structured, and supervised environment;
    - Includes educational or enrichment activities; examples include, but are not limited to:
        - Arts and crafts
        - Homework assistance
        - Life skills
        - Remedial education

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        - Organized fitness activities

    - Is open to all children, and does not limit participation or membership on the basis of the child's ability.

        - Programs designed to meet the special needs of enrolled children, such as programs for children with learning disabilities or children who are academically gifted may also be eligible to participate.

        - Organized athletic programs engaged in interscholastic or community level competitive sports *only* are not eligible to participate in the at-risk afterschool care center component of the CACFP; however, School Food Authorities (SFAs) that operate an approved afterschool program for other children may claim children that participate in school athletic programs.

- Is located in an attendance area of a school in which 50 percent or more of the children enrolled are eligible for free or reduced-price school meals. Free and reduced-price enrollment data from private or charter schools may not be used to determine area eligibility unless the afterschool program is actually located in the private or charter school. Determinations of area eligibility are valid for five years and are not required to be re-determined annually unless TDA or the contracting entity obtains information indicating the at-risk afterschool care center is no longer area eligible. Reference Item 4231.2, *Documentation of Area Eligibility* for documentation requirements.

  Note: A list of schools in which at least 50% of the children enrolled are certified eligible for free or reduced-price meals is available at http://www.squaremeals.org under CACFP Administration and Forms.

- Complete an application for participation, submit all required application documentation and enter into an Agreement with the Texas Department of Agriculture or a sponsoring organization.

Child care centers, whether for-profit or nonprofit (this includes independent centers and sponsored sites), that participate in the traditional child care center component of the CACFP and want to add the at-risk component must ensure: (1) they meet the criteria for at-risk, including providing an eligible afterschool program that is separate and distinct from the ongoing child care provided by the center; and (2) the at-risk program is available to any participant (not just those children enrolled for traditional child care). In this case:

- The enrolled school age children attending the traditional child care center **after** their school day or on weekends, holidays, or school vacations that participate in the afterschool program can be claimed for at-risk snacks/meals received; and

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- Children who are not school age and do not attend school would continue to participate in the traditional CACFP meals service and be claimed under traditional CACFP, even during the afterschool hours.

Additionally, a residential child care institution (RCCIs) may be eligible to participate in at-risk if it has a separate non-residential care program and offers education and enrichment programs for non-residential children.

Eligibility Requirements for Emergency Shelter Participation in the At-risk Afterschool Care Center component of the CACFP

To be eligible to participate, the emergency shelter must operate an afterschool program that has education or enrichment activities for homeless children and youth during the regular school year, and must meet applicable state and local health and safety standards.

Emergency shelters are exempt from meeting the area eligibility requirement.

The emergency shelter must only claim reimbursement for the at-risk afterschool snacks/meals provided to homeless school-age children who attend the at-risk after school program.

Effects of "Busing" or "School Choice" on Area Eligibility for the At-Risk Afterschool Care Center

CEs, other than emergency shelters, applying to participate in the at-risk afterschool care center component of the CACFP must meet area eligibility requirements.

If the site is located in the attendance zone of a public school that uses "busing" (the school assigns children to specific schools outside of the child's neighborhood to achieve racial and economic diversity in the schools) or allows "school choice" (meaning a student may choose which campus they wish to attend), the CE may use the enrollment/attendance data for either the public school that the children:

- Attend as a result of busing or school choice; or
- Would have attended if it were not for the school's busing or school choice policy (the neighborhood/attendance zone in which the at-risk afterschool care center is located and where the children live).

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CEs must:

- Obtain the percentage of children eligible for free and reduced price meals at each school, both before and after the students are reassigned to the school outside their neighborhood.
  - This documentation must be obtained from both the school to which the students are attending and the school located in the neighborhood where the children live.
- Submit this documentation with their application to participate, or when adding an at-risk site to verify its area eligibility.

The CE must use the same method of determining eligibility for all sites in which busing or school choice occurs.

NOTE: Census data may not be used to determine area eligibility for at-risk.

Organizations which want to sponsor at-risk afterschool care centers must additionally meet the following criteria:

- If a nonprofit, have tax-exemption under 501(c)(3) of the Internal Revenue Code of 1986.
- Ensure that the sites they sponsor meet the child care center eligibility requirements stated above.
- Maintain required records and documents.
- Accept final administrative and financial responsibility for the Program operations.
- Attend all required TDA training.
- Operate a nonprofit food service.
- Personally manage Program operations, in other words, they may not subcontract the management of Program operations (refer to Section 3000, Item 3140, *Program Management*, for additional information related to subcontracting).
- Provide adequate supervisory and operational personnel to effectively manage and monitor Program operations.
- Restrict their employees from securing additional employment that interferes with their Program responsibilities and duties, i.e., scheduling or conflict-of-interest issues.
- Complete an application for participation, submit all required application documentation and enter into an Agreement with the Texas Department of Agriculture.
- Unmet Need – an organization applying to participate in the Program as a new sponsor, or reapplying to participate after a break in service, must document that its participation will help ensure the delivery of meal benefits to previously un-served sites. A "break in service" is defined as any period of time in which an organization does not have a signed and approved Food and Nutrition Division (FND) Permanent Agreement. The Permanent Agreement may have been terminated for cause or by mutual consent.

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To demonstrate unmet need, the organization must apply to sponsor only a site or sites that have not participated in the Program at any time during the twelve months prior to the date the organization submits their application. The organization must certify the accuracy of this information as provided in its application.

Once an organization is approved to participate as a sponsor, it may add sites under their sponsorship regardless of the sites' past participation in the Program. Refer to Items 4231, *Adding, Terminating, or Making Changes to Sites*, 4234, *Open Enrollment* and 4235, *Transfers*, in this handbook for further guidance and requirements.

EXCEPTIONS:

- SFAs currently participating in the NSLP/SBP are not required to demonstrate unmet need
- Currently participating Summer Food Service Program (SFSP) sponsoring organizations in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) applying to participate with sites that are currently participating in the SFSP are not required to demonstrate unmet need

NOTE: For-profit organizations may only sponsor the participation of sites that are part of the organization's legal entity (affiliated).

Ineligibility

An organization, including a site, is ineligible to participate in the Program if:

- A member of the organization's governing body, an agent, a consultant, a volunteer, or an employee has been convicted of any activity that occurred during the seven years preceding application or renewal that indicates a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.
- The organization, or a principal within the organization, is on the National Disqualified List (NDL), or the Texas Excluded SFSP List (TEXSL).
- The organization's, or any principal of the organization's, participation in a publicly funded program was terminated for violating that program's requirements during the seven years preceding application or renewal, and eligibility to participate in that program has not been reinstated.
- A publicly funded program is defined as any program or grant funded by federal, state or local government. An organization must submit documentation that demonstrates

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that the program noncompliance was corrected and that eligibility to participate in that program was reinstated, including repayment of any funds owed if applicable. The organization's application will not be approved without this documentation.

- The organization does not meet the eligibility requirements detailed above.
- The organization does not meet any other criteria as determined by TDA.

2200 Application

NOTE: SFAs and currently participating SFSP sponsors in good standing applying to participate in the at-risk afterschool care center component should visit the TDA website at http://www.squaremeals.org, "Can I be a CACFP Contracting Entity" for specific application requirements.

2210 Getting Started

Potential CEs will go to TDA's Texas Unified Nutrition Programs System (TX-UNPS) located at http://TXUNPS.TexasAgriculture.gov, "Interested in Applying", and complete the pre-eligibility form to request access to the application. An email with a logon will be sent to the email address provided once the information is processed. Once logged in, the CE will complete all required entries and submit those documents and items needed from the "checklist" menu.

Potential CEs will provide information about their organization and their plan to manage Program operations. The United States Department of Agriculture (USDA) does not allow organizations to hire an outside source to complete the application on their behalf. TDA and the Regional Education Service Centers (ESCs) can answer questions and provide technical assistance throughout the application process. A list of TDA Community Operations Field offices and ESC offices is located in Section 11000, *Resources* of this handbook.

If an organization submits an incomplete or incorrect application, TDA will request that it submit the information needed to complete the application. TDA will notify the organization of approval or denial within 30 calendar days of receipt of a complete application.

Upon approval of its application, the CE will receive a signed copy of its Permanent Agreement. TDA will not issue payment or reimbursement prior to execution of the Permanent Agreement. Additionally, the CE should notify TDA immediately, via TX-UNPS, if it's mailing address changes. This will ensure prompt delivery of the Permanent Agreement and other Program information.

A CE may operate multiple components of the Program such as day care homes, child care centers, and adult care centers at any one time. The CE will have a single Permanent Agreement

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that includes all programs that it administers, but **must complete a separate application for centers and day care homes**.

Organizations unable to complete an application online using TX-UNPS may contact TDA at 877-TEX MEAL (877-839-6325) to obtain a paper copy of the application. However, it is highly recommended that organizations obtain access to the internet and submit the application using TX-UNPS.

Potential CEs are encouraged to use the TDA CACFP Handbooks to assist in completing the application process. For example, this section explains eligibility and application requirements, Section 4000, *Managing the Program* explains the day-to-day requirements of Program operation, and Section 7000, *Financial Management* explains the requirements around use, management and documentation of the funds. Each section will assist the potential CE is writing the procedures required to be submitted as part of its management plan.

2220 Management Plan

An important part of the application is the management plan. It must provide detailed information about the organization's administrative structure, including:

- An organizational chart with the names and functions of all officers, agents, consultants, volunteers, and employees of the organization.
- Staff assigned to Program management and monitoring.
- How the organization will:
  - Administer the Program;
  - Recruit and manage additional sites (if a sponsoring organization);
  - Pay the sites that it sponsors (if a sponsoring organization);
  - Collect information from its sites (if a sponsoring organization);
  - Ensure that staff take accurate meal counts at the point of service;
  - Train administrative and site staff;
  - Ensure that all procurement activity meets Program requirements;
  - Review the operation of the Program in its sites (if a sponsoring organization);
  - Monitor its food service management company/vendor (if applicable);
  - Comply with nondiscrimination laws (refer to Section 6000, *Civil Rights*, for additional information).

The management plan is one source used to determine an organization's ability to manage the Program. TDA also uses the management plan to determine how many sites a sponsoring organization will be approved to sponsor.

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The following factors may affect this decision:

- Whether the organization is a new sponsor.
- Whether the management plan demonstrates that the organization can only manage a limited number of sites.
- Whether the organization operates the Program in a manner suggesting that it can only manage a limited number of sites.

If TDA limits the number of sites the organization may sponsor, any increase to this limit must be approved by TDA in writing, before it will be allowed to sponsor sites above the limit.

2221 Publicly Funded Programs

Organizations must provide a list of publicly funded programs in which they currently participate in and participated in during the past seven years.

A publicly funded program is defined as any program or grant funded by federal, state or local government.

Organizations must also certify that during the past seven years neither the organization nor any of its principals have been declared ineligible to participate in any other publicly funded program by reason of violating that program's requirements.

If the organization or any of its principals have been declared ineligible to participate in any other publicly funded program by reason of violating that program's requirements, the organization must submit documentation that demonstrates that organization or principal previously declared ineligible was later fully reinstated in or determined eligible for the program, including repayment of any funds owed if applicable.

2222 Performance Standards

New and renewing CEs must demonstrate in their application that they meet the following performance standards:

- Financial Viability and Financial Management– (V): the CE has the financial resources to meet all of the Program's requirements.
- Administrative Capability – (C): the CE has the staffing and expertise to meet all of the Program's requirements.
- Program Accountability – (A): the CE has in place internal controls to assure that Program funds for operational and administrative expenses are properly spent.

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When providing procedures and processes to document the above, CEs must include the following:

- Who: The person/position responsible for performing the task(s) and who will backup that person in performing that function should the responsible person be unavailable;
- What: A detailed description of the task to be performed to accomplish the Program requirement;
- When: At what time/interval will the task be performed (i.e., daily, weekly, monthly).
- How: A detailed description of how the person(s) are to complete the task to accomplish the Program requirement.
- Where: The location of the written procedures and processes to ensure each position responsible for performing the tasks to accomplish the Program requirements is able to access them.

EXCEPTIONS:

- SFAs currently participating in the NSLP/SBP are not required to demonstrate VCA
- Currently participating SFSP sponsoring organizations in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) applying to participate with sites that are currently participating in the SFSP are not required to demonstrate VCA

Contracting Entities that are Sponsors

Sponsors assume final administrative and financial responsibility for all sites they sponsor. Sponsors are responsible for returning to TDA any funds received on behalf of a site or sites that are determined unearned, meaning disallowances are taken, regardless of whether the sponsor recoups those funds from the site(s). Additionally, sponsors are held responsible for Program violations committed by their sites.

Though it is not a Program requirement that a sponsor determine a site's Viability, Capability and Accountability prior to applying for the Program on behalf of a site, it would be prudent for the sponsor to evaluate whether the site is capable of meeting Program requirements, including the return of unearned funds to the sponsor. Refer to FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* for instructions on recovery of overpayments from sites.

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2222.1 Financial Viability and Financial Management

To demonstrate financial viability and financial management, the CE must document the following:

1. It has adequate financial resources to operate the Program on a daily basis, has adequate sources of funds to continue to pay employees and suppliers during periods of temporary interruptions in Program payments and/or to pay debts when fiscal claims have been assessed against it.
   An independent CE may document this by providing:

   - A current balance sheet and income statement (profit and loss). CEs must show that current assets exceed current liabilities, or that there is cash on hand to pay for current costs. Current costs include short-term debts as well as regular operating expenses, and/or
   - A recent (within the last year) audit that meets the Single Audit requirements or TDA's for-profit audit requirements, and/or
   - An audited financial statement.

   A CE that is a sponsoring organization may document this by providing:

   - Three years of comprehensive financial statements that includes a balance sheet, income statement, statement of owner's equity and statement of cash flows. CEs with less than three years of financial history must submit comprehensive financial statements for the amount of time for which they have a financial history (for example, an organization that formed 18 months prior to applying for the CACFP must submit comprehensive financial statements for that entire 18 months), or
   - Three years of audits that meets the Single Audit requirements or TDA's for-profit audit requirements.

2. Costs funded from Program reimbursement are necessary, reasonable and allowable. The organization must identify all costs, and obtain the required level of approval: prior approval, specific prior written approval and those that require USDA approval.

   Organizations can reference Section 7000, *Financial Management* of this handbook, 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and FNS Instruction 796-2, *Financial Management - Child and Adult Care Food Program*, located at http://www.squaremeals.org under CACFP Policy & Handbook, for guidance on determining allowable and unallowable costs, direct and indirect costs and required levels of approval for each cost.

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3. Funds will be spent and accounted for in accordance with Program regulations and instructions. (If an administrative review has been conducted, findings related to improper use and/or inadequate documentation of Program funds will be part of determining financial viability.)

NOTE: Other documentation to support financial viability, other than that discussed above, may be requested.

2222.2 Administrative Capability

To demonstrate administrative capability, the CE must document that appropriate and effective management practices are in effect to ensure that the Program operates in accordance with requirements.

In addition CEs must meet the following criteria as demonstrated through the management plan:

1. CEs are required to have an adequate number and type of qualified staff to ensure the operation of the Program.
   a. The CE will document in the management plan the qualifications it required/requires of the person designated to perform the following Program functions.
      i. Direct and manage the Program
      ii. Train staff and sites
      iii. Determine eligibility (free/reduced-price)
      iv. Financial management
      v. Review meal counts, menus and attendance records to ensure compliance
      vi. Plan menus
      vii. Purchasing (procurement)
      viii. Record keeping (maintain records) – administrative and operational
      ix. Enforcement of civil rights requirements
      x. Preparation and submission of claims
      xi. Meal preparation
      xii. Documentation of meal production records
      xiii. Serve meals
      xiv. Take meal counts
      xv. Reimburse sites (if a sponsoring organization)
      xvi. Recruitment of sites (if a sponsoring organization)
      xvii. Monitor sites (if a sponsoring organization)

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The qualifications required are those the CE required when the employee was hired for his or her position within the organization and must demonstrate that the employee designated to perform the Program function has the ability to perform that function in a manner that ensures Program compliance and integrity.

For example, the person designated to direct and manage the Program might be the at-risk afterschool care center's Director. The Director may have been required to have the following qualifications: Bachelor's degree in childhood education and a business management minor or coursework, 7 years' experience including teaching, excellent verbal and written communication skills, highly effective organizational, time-management and multi-tasking skills.

2. Sponsors must employ staff sufficient to monitor all sites to ensure compliance with Program requirements and must also have written personnel policies and procedures in place. Sponsors of 25 or more sites must complete item C. Administrative Capability, #4 *Sponsoring Organization Monitoring Staff Information* in the Management Plan section of TX-UNPS.

   Note: sponsors that initially apply with less than 25 sites must amend the management plan and complete the above section if and when their sponsorship increases to 25 or more sites.

   This provides a method to determine the **minimum** number of staff a CE might need to properly monitor its sites. However, if at any time it is determined by TDA that the number of staff a CE has dedicated to monitoring site compliance is insufficient the CE will be required to either increase staff or decrease the number of sites it sponsors.

3. Sponsors must have written policies and procedures that assign Program responsibilities and duties and ensure compliance with civil rights requirements.

Written procedures for each process requested in the Management Plan must be provided, and must demonstrate that the organization will be capable of operating the Program. Refer to Item 2222, *Performance Standards*, for more information.

CEs that include labor costs in the budget must also submit a compensation policy that includes at least the minimum information required by FNS Instruction 796-2, *Financial Management-Child and Adult Care Food Program*. Refer to Item 2230, *Budget* for more information on labor costs.

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If an administrative review is available, it will be one of the resources used to help TDA determine a CE's administrative capability. Having a "proven track record" is important for an organization to demonstrate this standard.

2222.3 Program Accountability

To demonstrate Program Accountability, the CE must track and monitor its own actions in two areas:

- Program funds – ensure that Program dollars are being spent for the purpose of providing meals and/or snacks that meet Program requirements.
- Meal service – ensure the quality of the meal service and compliance with Program requirements.

Written procedures must be submitted as part of the Management Plan that demonstrates that the organization:

1. Has adequate oversight of the Program by an independent governing board of directors. Refer to Section 9000, *Terms, Definitions and Acronyms*, for the definition of independent governing board of directors.
2. Has a financial system with management controls specified in writing, that accounts for:
   - All Program funds and property received, held and disbursed;
   - All Program expenses incurred;
   - Accurately and timely claims processing; and
   - System safeguards and controls to prevent and detect improper financial activities by employees.
3. Maintains appropriate records to document compliance with Program requirements including, but not limited to:
   - Budgets;
   - Accounting records;
   - Approved budget revisions;
   - Training plan; and
   - Monitoring plan (sponsors only).
4. Maintains documentation that demonstrates:
   - Meals meet the CACFP meal patterns;
   - Civil rights requirements are met;
   - Records are complete and maintained on file (reference Item 4430, *Types of Records*); and
   - Claims are submitted only for eligible meals.

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The procedures should be as detailed as possible to ensure TDA staff reviewing the application can clearly understand the processes and procedures being used by the organization to manage the Program. Refer to Item 2222, *Performance Standards*, for more information.

A CE that cannot demonstrate it meets the VCA requirements will not be approved. If an application is denied, the CE has the right to appeal the decision. Refer to Section 8000, *Denials, Terminations and Appeals* of this Handbook for more information.

Governing Body Awareness

Organizations must submit documentation that their independent governing board of directors is aware of the responsibilities and liabilities of participating in the Program.

A *Governing Body Awareness* (GBA) form is available at http://www.squaremeals.org for CEs use in submitting the above information.

Additionally, organizations must submit the following information for each member, including owners of for-profit organizations:

- Full legal name;
- Complete home mailing address;
- Complete home street address, if different from mailing address;
- Phone number;
- Date of birth;
- Relationship with any other member or employee of the organization; and
- Compensation, if any, that they receive for services provided to the organization.

CEs can submit the identifying information in TX-UNPS through the Board of Directors screen.

This documentation must be submitted with the application, and whenever changes occur in the members of the governing body, or to the information submitted (for example, a member's home address).

Acceptable documentation includes:

- A copy of the minutes taken at an official meeting of your governing body that documents its decision to participate in the Program and includes:
  - Date of the meeting;
  - Items discussed, including the decision to participate or continue participation in the Program;
  - Names of all governing body members who were present;

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- Names of all governing body members who voted on the action items; and
- Signature of the Secretary of the Board.

- A written declaration by each member of your governing body that states they are aware of Programs responsibilities and liabilities.

NOTE: If all Board Members are not present at the official meeting, a copy of the minutes as well as a written declaration from the member/members not present may be submitted together to document governing body awareness.

EXCEPTIONS: Governing body awareness does not apply to public institutions (such as Governmental, Military, or Indian Reservations).

2223 Free and Reduced Price Policy Statement

A CE which does not serve meals at a separate charge shall agree to the following free and reduced-price meal policy:

The representative(s) of the contracting entity applying for participation in the Program agree to accept the responsibility of and assure that the contracting entity:

a. will not physically segregate nor discriminate in any way against any person receiving a free or reduced-price meal benefit and that it will protect the anonymity of these persons and that there will be no overt identification of persons receiving a free or reduced-price meal; and

b. will serve the same meals or snacks to all Program participants at no separate charge, regardless of race, color, national origin, sex, age, or disability and that there will be no discrimination in the course of the food service.

By agreeing to this statement the contracting entity assures the Texas Department of Agriculture (TDA) it will uniformly implement the free and reduced-price policy statement in all CACFP sites under its jurisdiction. This policy statement is permanent and remains in effect until it is modified by TDA.

A CE that does charge separately for meals must complete and submit with its application the *Free and Reduced Price Meal Policy Statement* (H4515) and the *Collection Procedures* (H4515-A).

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2230 Budget

A budget may include estimated annual expenses for:

- Labor, including fringe benefits;
- Food;
- Facilities and Space;
- Supplies and Equipment;
- Purchased Services;
- Media Costs
- Contracted services; and
- Other expenses, for example, postage, printing, office supplies.

The proposed budget is reviewed to ensure that:

- The Program will not operate at a deficit.
- Individual line items in the budget are:
  - Approved uses of Program funds.
  - Reasonable for the item or service to which the cost is attributed.
  - Necessary for the operation of the Program.

TDA determines the limits of a reasonable budget based on the size of the Program, the duties of personnel, and the economic conditions in the community. TDA may collect budget data from a representative number of organizations to determine if the costs contained in a budget are reasonable.

If budgeted costs exceed the Program reimbursement that the CE might expect, the CE must disclose the source(s) of funds to support the additional expense, and/or disclose the source(s) and amount(s) of funds/income designated specifically for use in the nonprofit food service.

NOTE: Funds designated specifically for use in the nonprofit food service become restricted funds and must be used solely in the nonprofit food service, and accounted for according to Program requirements.

If TDA determines that a budget provides insufficient funds to manage the Program (for example, the amount budgeted for food costs appears too low) or that it includes excessive or unnecessary costs (for example, the costs for paper supplies appear too high), the organization will be asked to revise its budget or provide additional information.

Some items of cost cannot be included in the budget prior to the CE receiving specific prior written approval (SPWA) from TDA or FNS Regional Office approval. In the case of costs that

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require specific prior written approval the CE must submit the cost separately in TX-UNPS by selecting "Request for Specific Prior Written Approval" in applications. After selecting request for specific prior written approval the CE will select "create a request" and follow the prompts. The CE must upload all supporting documentation before the request can be considered. The CE will receive an automated email that either approves or denies the requests or indicates a need for correction.

Once approved the CE must amend the budget to add the item in the appropriate cost category. If the CE fails to amend the budget to include the cost and uses Program **funds the cost will be disallowed and the CE will be required to repay the non-profit food service**.

NOTE: SPWA is only valid for the Program year in which it was obtained. CEs must request SPWA each year for costs requiring SPWA. The cost and the required supporting documentation cannot be carried forward from one year to the next.

A CE's approved budget will include the level of potential costs approved by TDA and is based on the budget that the organization submits. **The approved budget does not imply in any way that the CE will be reimbursed for the full amount of each budgeted item**; rather, it specifies the areas of costs that may be allowable and gives reasonable levels for those costs. If a CE finds that the levels approved in the budget are inadequate, or if TDA determines that a budget amendment is necessary, the CE may amend the budget with approval by TDA for each item.

TDA **will not** approve a retroactive amendment to the budget.

Refer to Section 7000, *Financial Management* and FNS Instruction 796-2, Financial Management – Child and Adult Care Food Program for guidance on budgets, levels of approval, allowable costs, and circumstances which cause allowable costs to become unallowable, as well as a list of costs that require specific prior written approval and/or FNS Regional Office approval.

To assist in determining what may be a reasonable salary to budget to the Program for employees that perform Program duties, CEs can use the TDA Compensation Tools for CACFP located at the bottom right of the screen at:

http://www.squaremeals.org/Programs/ChildandAdultCareFoodProgram.aspx.

The compensation tools utilize data from the North American Industry Classification System (NAICS) and the Bureau of Labor Statistics (BLS) job categories under the "Social Assistance" industry type to determine the maximum salary range for positions which perform CACFP functions.

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2240 Contracting Entity/Site Operations

In addition to the information contained in a CE's management plan, checklist items and budget, independent CEs and sponsoring organizations must submit information about their operations, including but not limited to:

- Identifying information: name, address, phone number;
- Qualifying information: licensure/certification, tax-exemption, area eligibility, percentage of Title XX/free or reduced-price eligibility (if for-profit);
- Operational information: method of meal preparation, meal service types and times, days and hours of operation, and the number of enrolled children in each eligibility category.
- Approval to operate: All Non-ISD organizations submitting approval for a site(s) participating on a school campus MUST provide a signed agreement from the appropriate District Office/District Official for each (of the) sites(s). The agreement must confirm that the appropriate District Office/District Official has given permission for the Non-ISD organization to operate the Program on the school campus (the agreement must include all of the school campuses/sites that the Non-ISD organization is submitting for approval), the program that the Non-ISD organization is allowed to operate on each of the school campus/site, and the effective date of the agreement. Please note that if the school district in question is providing the same services as proposed to be provided by the non-school entity there may be a conflict of interest and/or possible non-compliance issue; school-districts will receive priority of service as decreed by program rules and regulations.

For complete information on documentation and required information, reference Item 4231, *Adding, Terminating, or Making Changes to Sites* in Section 4000, *Managing the Program* of this handbook.

CEs must provide a complete physical address of the primary business office where Program records will be maintained and where all essential Program management functions, such as review and approval of menus/meal counts and processing payment of claims for reimbursement will be performed. CEs must submit changes to their application/management plan, including the budget if needed, when there will be a change in the location of their primary business office. Additionally, CEs must submit a new license if their primary business office is also a licensed center.

Records must be available for review during normal business hours, which are at a minimum from 8:00 a.m. to 5:00 p.m., Monday through Friday. Additionally, an appropriate representative of the CE must be available to meet with TDA staff with no more than four hours' notice during normal business hours.

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CEs that are sponsors must also be available by telephone to their sites and TDA. This means that:

- A representative of the organization can be contacted at the primary business office during normal business hours, usually 8:00 a.m. to 5:00 p.m., Monday through Friday.
- The CE must provide a voice mail service and contact, within 24 hours, a site or TDA staff member who has left a voice mail message.

Dun and Bradstreet Data Universal Numbering System (DUNS)

Non-federal agencies and organizations that do business with the Federal government must use the Dun and Bradstreet Data Universal Numbering System (DUNS) as their identifier. The DUNS number will not replace the Employer Identification Number (EIN), but will become an identifier for a non-federal entity to apply for funding under a Federal assistance program.

The DUNS number is a nine-digit number issued by Dun & Bradstreet to each business located in the Dun & Bradstreet database having a unique, separate, and distinct operation. The DUNS number is random and the digits have no apparent significance. It is a tool of the federal government to track how federal money is distributed.

To obtain a DUNS number, free of charge, call Dun & Bradstreet using the toll-free number, 1-866-705-5711 and indicate that you are a Federal grant applicant/prospective applicant. You can also request a DUNS number on-line by accessing the following website at: http://fedgov.dnb.com/webform. Please be advised the waiting period to obtain a DUNS number can be anywhere from 24 to 72 hours, or several weeks, so organizations should request their numbers as soon as possible.

Organizations applying for participation in any of the Child Nutrition Programs must obtain and provide to TDA their DUNS number.

2241 Licensing

At the time of application the CE must provide documentation that each center is licensed to operate by one of the following:

- Texas Health and Human Services Commission (HHSC) (formerly Texas Department of Family and Protective Services (DFPS));
- Military installation; or
- Indian reservation.

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CEs must also provide documentation of the centers' licensed status whenever their licenses are amended or relinquished, or provide documentation demonstrating compliance with procedures to renew licensing or approval. CEs that are sponsors must provide a documentation of licensure or exemption for each new site added.

During renewal (continuation) processing, CEs will not be required to submit a copy of each sites' license unless the license status has changed. The CE will however be required to certify that each site has a current license or exemption.

Exemptions to HHSC licensing requirements:

At-Risk Afterschool care centers **may be** exempt from licensing requirements. The following conditions, as defined by HHSC regulations, determine whether an organization is exempt and if it must obtain a written exemption from HHSC:

- Sites operating for less than two hours per day, regardless of the number of days service is provided, are not subject to licensing regulation and do not require a written exemption from HHSC.
- Sites operating for more than two hours per day, but less than three days per week, are not subject to licensing regulation and do not require a written exemption from HHSC.
- Sites that operate exactly two hours per day for three or more days a week require a license or written exemption from HHSC.
- Sites operating more than two hours per day and three days per week or more, require a license or written exemption from HHSC.

NOTE: "Less than two hours", "more than two hours", and "exactly two hours" applies to the "Normal Hours of Child Care Operations", as indicated on the site application, and not the meal service duration.

Organizations exempt from licensing based on any of the above, must submit documentation demonstrating compliance with city, county or state health and safety requirements with the site application.

A copy of the most recently completed inspection report, a certificate that states the center/shelter is in compliance with health and safety regulations or other documentation from the health and/or safety authority stating your center/shelter is in compliance with health and safety regulations will be accepted.

Organizations exempt from licensing that do not or cannot obtain documentation of compliance with city, county or state health and safety requirements are not eligible to participate in the Program.

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EXCEPTIONS:

- SFAs currently participating in the NSLP/SBP are not required to submit health or safety documentation for school sites
- Non-SFA sites located in a school that participates in NSLP/SBP are not required to obtain an additional health and safety inspection provided the school has obtained the required food inspections for the NSLP/SBP.
  If the school has not obtained the required food inspections the CE will have to obtain the required health and safety documentation. CEs should verify the schools compliance with school officials.
- Currently participating SFSP sponsoring organizations in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) applying to participate with sites that are currently participating in the SFSP are not required to submit health and safety documentation if it was submitted during the site's summer participation (submission of a letter to the local health or safety authority does not qualify as documentation of compliance).

If you are unsure who your local health or safety authority is you may view local public health organizations at http://dshs.texas.gov/regions/lhds.shtm to find a contact in your area.

Documentation of Licensure

Documentation of licensure shall be a copy of the license issued to the center/site by the HHSC, Licensing, or a copy of the certification/license issued by the military installation or Indian reservation.

If a child care center has been approved to care for children by HHSC Licensing, but has not yet received a copy of its license, a CE may request approval for participation in the Program by submitting alternate documentation as described below.

Acceptance of alternate documentation shall not relieve a CE of the requirement to submit a copy of each child care center license.

TDA will suspend the option to approve a CEs sites on the basis of the alternate documentation procedure for any CE that:

- Fails to submit copies of licenses within a reasonable time following submission of alternate documentation; or
- Establishes a pattern indicating a failure to make a good faith effort to obtain licenses prior to requesting approval according to the alternate documentation procedure.

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Alternate HHSC Documentation

A CE may submit a print screen from the HHSC website as temporary proof of license for the center, if the center has not yet received their license from HHSC. The print screen can only be used temporarily and the copy of the license must be submitted to TDA immediately upon receipt.

Sponsors who do not receive a copy of the license from their sponsored site must contact that site or HHSC within 3 months of submitting the print screen to TDA to obtain the license or obtain a status on the license.

To access the HHSC website and obtain a print screen follow the instructions below:

Log on to www.dfps.state.tx.us.
Select "Child Care Licensing" from the menu on the left hand side of the screen.
Select "Search Texas Child Care" from the menu on the left hand side of the screen.
Select "Search for a Day Care" from the selections in the middle of the screen.
Enter applicable information and print the results.

CEs may also use a print screen for centers that have changed location but have not yet received their new license, as long as the print screen has the address of the new location. Under those circumstances, the center would continue to be eligible to claim meals; however, if the address has not been updated and the print screen still has the old address, the center would not be eligible to claim meals.

A sample of what the print screen would look like is located in Section 11000, *Resources*. The print screen must have the HHSC logo and name at the top.

TDA staff will verify the alternate documentation submitted and if TDA determines that the print screen provided is not from the HHSC website, or has been altered, the organization, responsible principals and responsible individuals will be placed in the serious deficiency process for falsifying government records.

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2241.1 Weekend Care

If a CE that is a sponsor approves a site to claim meals during weekend care, the sponsor must:

- Ensure the site is licensed to operate on weekends.
- Document the approval of the site to participate during weekends on the site application.
- Monitor the site's weekend participation.

2241.2 Minimum Standards

Licensed child care and at-risk afterschool care centers must adhere to all applicable State and Federal rules, regulations, policies and procedures concerning minimum standards for child care centers.

The rules and regulations, issued by the HHSC are located at www.dfps.state.tx.us, select Child Care Licensing, and then select "Minimum Standards for Child-Care Center".

HHSC requires centers to notify them in advance and be approved before making changes (reference HHSC Minimum Standard §746.301) to the hours, days or months it will operate, in addition to other changes. TDA will not approve meals/snacks and weekend participation if the hours of operation and/or days of operation listed by the CE on the site application do not match the approved hours, days and months listed for the site on the HHSC licensing website.

TDA will report any center violating licensing rules, including requirements regarding meals and snacks, to HHSC for investigation. Additionally, sponsoring organizations that become aware of a site they sponsor violating licensing rules, including requirements regarding meals and snacks and hours, days and months of operation, must report that site to HHSC for investigation.

2242 Tax Exemption

Private nonprofit organizations must have received and must maintain tax-exempt status under 501(c)(3) from the U.S. Internal Revenue Service (IRS), either individually or as part of a group ruling.

If an organization acquired tax-exempt status under a group ruling, it must submit proof of their affiliation with the parent organization that has tax-exempt status.

Organizations that lose their tax-exempt status are not eligible to participate in the **Program**. Failure of an organization to notify TDA of loss of tax-exempt status and voluntarily terminate

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its Permanent Agreement will result in the organization's placement in the serious deficiency process.

NOTE: A CE that is a sponsor of unaffiliated sites must obtain, retain, and make available the same information for each of the nonprofit sites that it sponsors.

EXCEPTIONS:

- Churches are not required to provide proof of tax exemption, however an organization must ensure that it qualifies as a church according to IRS publications 557, *Tax Exempt Status for Your Organization* and 1828, *Tax Guide for Churches and Religious Organizations*. Organizations that represent themselves as a church and do not meet the qualifications of a church will be required to submit proof of tax exempt status.
- SFAs currently participating in the NSLP/SBP are not required to submit proof of tax-exemption.
- Currently participating SFSP sponsoring organizations in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) applying to participate with sites that are currently participating in the SFSP are not required to submit proof of tax-exemption.

Reasons Organization's Lose Tax-Exempt Status

Most organizations lose tax-exempt status due to failure to file an annual form 990 (990, 990-PF, 990-N (also known as the e-Postcard), or 990-EZ) series information return for three consecutive years. However, organizations can also lose tax-exempt status due to:

- A material change in the character, purpose or method of operation of the organization which is inconsistent with exemption;
- Enactment of legislation or ratification of a tax treaty;
- Any other reasons determined by the IRS.

Organizations must ensure compliance with the 990 filing requirements, including small tax-exempt organizations whose gross receipts are normally $50,000 or less. The Pension Protection Act of 2006 (PPA) requires organizations whose gross receipts are normally $50,000 or less to annually file Form 990-N, also known as the e-Postcard unless the organization chooses to file Form 990 or 990-EZ.

Additional information about tax-exemption and the filing requirements can be found at www.irs.gov.

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2243 For-profit Sites

Once a for-profit organization is approved for participation, it may continue to participate even if the percentage of enrolled children or licensed capacity (whichever is less) receiving Title XX benefits or free or reduced-price meals falls below 25 percent. **However**, no reimbursement will be made to a for-profit organization for meals and/or snacks served at any site during any month in which the percentage falls below 25%. **This includes meals served in both the traditional child care and at-risk afterschool care center components of the CACFP.**

The following is an example of how to calculate the percentage of enrolled children or licensed capacity that receive Title XX benefits or free or reduced-price meals:

A CE or site provides day care services to 110 enrolled children. Their licensed capacity is 90.

Because the licensed capacity is less than the enrollment, licensed capacity must be used to determine if the site meets the 25% eligibility requirement, as follows:

- Twenty-eight (28) children receive Title XX benefits. 28 divided by 90 equals .311 or 31 percent.
- Fifteen (15) children are eligible for free or reduced-price meals. 15 divided by 90 equals .166 or 16 percent (do not round up).

In this situation, the CE or site is eligible for reimbursement because the percentage of children receiving Title XX benefits is at least 25% of its licensed capacity, even though only 16 percent of the children were eligible for free or reduced-price meals.

IMPORTANT: For-profit organizations must not round up when calculating the percentage of children that received Title XX benefits or free or reduced-price meals. For example, a site that receives Title XX benefits or free or reduced-price meals for 24.99 percent of its enrolled participants or licensed capacity (whichever is less) is not eligible to claim reimbursement in the CACFP during that month. Children participating only in the at-risk afterschool care center component of the organization **may not** be counted in the percentage of children eligible for free/reduced-price or Title XX benefits.

A child who receives assistance from the Child Care Development Fund "pool" is a recipient of Title XX benefits for the purpose of establishing a CE's or site's eligibility to participate in the Program. Additionally, a child who receives Title XX benefits in support of "self-arranged" care would be included when determining eligibility.

NOTE: A Native American tribal government that is recognized as a "public entity" or "local government" by Federal or state law is considered a public institution for Program purposes

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and may operate sites located on a reservation or tribal lands over which it has jurisdiction. In this situation, a centers directly administered by the tribal government would also be considered a public entity. If a tribal government is not recognized as a public institution, but has been granted nonprofit status by the Internal Revenue Service (IRS), a center directly administered by the tribal government would also be considered a nonprofit entity. Centers that are neither administered by a tribal government nor recognized as nonprofit entities by the IRS are considered " for-profit organizations", and are subject to the 25% Title XX or free or reduced-price eligibility requirements.

2250 Pre-Award Civil Rights Compliance Review

A new CE must submit information related to its compliance with applicable nondiscrimination laws using the *Pre-Award Civil Rights Compliance Review* form located in download forms in TX-UNPS. Refer to Section 6000, *Civil Rights*, for additional information.

Sponsors may require sites to complete and submit the *Pre-Award Civil Rights Compliance Review* as part of its application requirement to ensure civil rights compliance during the pre-approval visit.

2260 Advance Payments

An advance payment is financial assistance made available to a CE for its Program costs prior to the costs being incurred. An advance is based on what TDA or the CE **estimates** its reimbursement will be, and must be repaid by the CE. Advances for the current PY are recouped from the July and August claims filed by the CE. If the July and August claims are not sufficient to recoup the advances, TDA will continue recouping the advances from the subsequent claims. Advances for the next PY will not be issued until all outstanding advances are repaid.

Organizations are urged to carefully consider their choice in receiving advances. TDA cautions organizations from choosing advances as overestimating participation and fluctuations in participation could result in reimbursement being less than the amount of advances given and the organization owing a debt for unearned advances at the end of the PY.

Reminder: A CE that owes advances at the end of the PY will not be eligible to receive advances the next PY until the debt has been repaid.

If an organization intends to request advance payments, its application and all required documentation should be submitted at least 60 days before the first day of the month in which it wants to begin participating in the Program.

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An organization may request advance payments, or may choose not to receive advance payments. Receipt of advance payments is not required for participation in the Program. A CE that requests advance payments may request discontinuation of the advance payments at any time by submitting a written request, including the month in which it wants to discontinue advances. Requests to discontinue advances should be submitted at least one month in advance to ensure the request is processed before the CE receives any further advance payments.

Written requests may be submitted via:

- email to CACFP.Bops@TexasAgriculture.gov;
- fax at (888) 232-2759;
- mail to the Texas Department of Agriculture, Attn: Business Operations – Advances, P.O. Box 12847, Austin, TX 78711; or
- overnight delivery to the Texas Department of Agriculture, Attn: Business Operations – Advances, 1700 N. Congress Ave., Austin, TX 78701.

Failure to return unearned advance payments may result in adverse action including placement in the serious deficiency process, termination of your Permanent Agreement, and referral for criminal prosecution.

Advances are not issued for the months of September and October of each year.

2270 Audit Compliance

Organizations must complete the *Annual Audit Form* (in TX-UNPS or via paper) certifying that it will obtain an audit if it meets the single audit or TDA for-profit audit requirements.

Refer to Item 5400, *Audits*, for specific information related to audit requirements, including for-profit organization audit requirements.

2300 Performance Bond

Non-governmental **sponsoring** organizations with fewer than three years of successful administrative and financial history within the preceding seven years must submit a performance bond with their application to insure against misuse of federal funding. The bond must be obtained from an approved surety company listed in the most recent publication of the U.S. Treasury Department's Circular 570.

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A letter explaining the bonding requirement and a standard bond form and instructions are provided in the download forms screen in TX-UNPS as well as the forms section of the TDA website. Organizations must present the letter to the surety company and complete the bond form following the instructions.

Organizations subject to the bonding requirement must submit a performance bond with the initial application and a Continuation Certification (if applicable) with each renewal application until relief is granted from this requirement.

NOTE: Currently participating SFSP sponsoring organizations that are in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) are not required to submit a performance bond.

2310 Amount of a Performance Bond

The amount of the performance bond will be determined by the sponsor's anticipated enrollment (attendance) and the sum of the following formula for each meal type the organization intends to claim:

(Total enrollment/attendance) x (Current Free Reimbursement Rate for Meal Type) x 90

Example: A sponsor has two centers with a combined enrollment of 50 children. Both centers intend to claim a snack and supper. Free reimbursement for snack is $.86 and supper is $3.16.

50 (total enrollment/attendance) x $4.02 (combined free rate for each meal type) x 90 = $18,090.00

The sponsor would have to obtain an initial bond in the minimum amount of $18,090.00.

Sponsors must increase the bond amount based on the following:

- Enrollment or reimbursement increases by 50% of the original anticipated enrollment/attendance or reimbursement;
- Each time the enrollment or reimbursement increases by 50% of the actual participation or reimbursement from the time the bond was last increased.

NOTE: The reimbursement rates used in the example above are not the actual rates and are only used for illustrative purposes. CEs must ensure they use the current reimbursement rates when calculating the amount of performance bond needed.

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The increase in the bond amount must be made and submitted to TDA within 45 days of the increase in enrollment or reimbursement.

A sponsor may submit a written request to decrease the amount of the bond if the sponsor experiences a significant decrease in enrollment or reimbursement.

NOTE: An organization that operates **all of its sites** two days per week or less may submit a written request to TDA requesting a reduced performance bond amount. The organization's written request must include: (1) the number of sites it operates; (2) the number of days per week each site will operate; (3) the meal type(s) each site will be serving; and (4) the number of children enrolled for care at each site or the number of children the organization anticipates serving at each site each day.

Written requests may be submitted via:

- email to CACFPBops@TexasAgriculture.gov;
- fax at (888) 223-8645;
- mail to the Texas Department of Agriculture, Attn: Business Operations – Applications, P.O. Box 12847, Austin, TX 78711; or
- overnight delivery to the Texas Department of Agriculture, Attn: Business Operations – Applications, 1700 N. Congress Ave., Austin, TX 78701.

2320 Relief from the Bonding Requirement

A CE that was required to obtain a performance bond at application that can subsequently demonstrate that it has accumulated three years of successful administrative and financial history may request relief from the bonding requirement by submitting a written request for relief. A CE may make the written request for relief from the bonding requirement when submitting the annual application to renew its participation.

Successful participation in the Program will be considered in determining the approval or denial of a request for relief.

NOTE: A request for relief from the bonding requirement will be denied if a sponsor has an outstanding financial obligation to TDA.

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2330 Cost of Obtaining a Performance Bond

The initial cost of obtaining a performance bond to meet TDA requirements may be an allowable cost if the cost is incurred the same month in which participation is approved. The costs of maintaining and renewing a bond required for continued participation in the Program is allowable. The cost must be included in the CEs approved budget.

2400 Additional Information

2410 Disqualification

USDA maintains a list of organizations and individuals disqualified from participation in the Program, known as the National Disqualified List (NDL). TDA maintains a list of organizations and individuals excluded from participation in the Summer Food Service Program (SFSP), known as the Texas Excluded SFSP List (TEXSL).

Organizations and individuals on the NDL and/or the TEXSL are **not** eligible to participate as a CE, site, day care home, or as an employee in any CE's operation in which they perform Program activities.

Additionally, individuals on the list may not hold any management (principal) positions within an organization, whether or not they perform Program activities. Management positions include, but are not limited to, board member, director, owner, co-owner and partner.

Organizations and individuals placed on the list by TDA will remain on the NDL until such time as USDA, in consultation with TDA, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the list until the debt has been repaid.

Organizations can request access to the NDL at:

https://snp.fns.usda.gov/ndlweb.Welcome.action

CEs must check the lists:

- Prior to hiring any employees who will hold any management position within the organization or perform Program activities; and
- Prior to signing an agreement with a site.

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It is also recommended CEs check the lists periodically to ensure current staff in management positions or performing Program activities, and/or sites and site staff in management positions or performing Program activities were not added to the list after being hired or added to the CEs sponsorship.

Links to the USDA NDL are also located at http://www.squaremeals.org under "Child and Adult Care Food Program" on the right hand side of the screen and in the "download forms" screen in the Texas Unified Nutrition Programs System (TX-UNPS)

NOTE: The Texas Excluded SFSP List (TEXSL) is located in download forms in TX-UNPS.

2420 Background Checks

During the application process, and at any time during an organization's participation in the Program, TDA may conduct background checks on each principal of a non-governmental organization to determine if any principal has a criminal history that would make the organization ineligible to participate in the CACFP.

Criminal history that would meet this criterion includes a criminal conviction in the seven years preceding the date of application (or date of the background check) that indicates a lack of business integrity including, but not limited to:

- Fraud
- Anti-trust violations
- Embezzlement
- Theft
- Forgery
- Bribery
- Falsification or destruction of records
- Making false statements
- Receiving stolen property
- Making false claims
- Obstructing justice

Organizations must certify to the truth of the information submitted with the application for participation in the Program. Failing to disclose a criminal history that meets the criteria above would result in the organization's placement in the serious deficiency process. Refer to Section 10000, *Serious Deficiency* for more information.

2430 Government Issued Identification

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Organizations must submit a form of government issued identification that contains a picture as well as proof of residential mailing address for each principal of the organization. A combination of identification can be used to achieve this requirement.

Acceptable forms of government issued identification include:

- Drivers' license or personal identification card issued by the Texas Department of Public Safety, or a similar document issued by an agency of another state, regardless of whether the card or license has expired,
- Military identification,
- Valid US Passport,
- Any other proof approved by TDA.

Acceptable documentation to prove residential mailing address includes:

- Drivers' license,
- Official mail addressed to the person's current address, by name, from a utility provider or government agency or bank,
- Current, valid voter registration card,
- A lease (that has not expired) executed by the individual,
- Any other proof approved by TDA.

If at any time during participation principals within the organization change, the above information must be sent to TDA for the new principal(s).

CEs that are sponsors must obtain and maintain the above documentation for the principals of their sponsored sites and make these documents available to TDA upon request.

EXCEPTION: This requirement does not apply to public institutions (such as Governmental, Military, or Indian Reservations).

2440 Amendments

A CE's application/management plan and signed Permanent Agreement can only be amended with TDA's approval. There are two types of amendments: universal and contracting entity-specific.

2440.1 Universal Amendments

Universal amendments are modifications to the terms and conditions of the Permanent Agreement that apply to all CEs, including amendments that are specific to a particular

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program, regardless of whether a particular CE has been approved to participate in that program. Universal amendments are initiated by TDA.

Failure to return a universal amendment could result in placement in the serious deficiency process. Refer to Section 10000, *Serious Deficiency* for additional information.

2440.2 Contracting Entity-Specific Amendments

Contracting Entity-Specific amendments are limited to:

- Adding participation in a TDA-administered program;
- Deleting participation in a TDA-administered program;
- Changing the name of the organization in which the EIN remains the same under the existing Permanent Agreement; or
- Changing the name of the organization in which other documentation establishing its legal identity remains the same under the existing Permanent Agreement.

Whenever necessary, TDA will amend the Permanent Agreement using an "amendment form" to indicate a CE's current participating status and/or organization name.

EXAMPLE (adding a program): If a CE is approved to participate in the Summer Food Service Program (SFSP) and later applies to participate in the Child and Adult Care Food Program (CACFP), the CE will complete the amendment form available both on SquareMeals and in TX-UNPS under download forms. The CE will sign the form and return it to TDA. A signed copy will be returned to the CE for its files.

EXAMPLE (name change): If a CE notifies TDA that the name of its organization has changed, but the EIN, or other documentation establishing its legal identity has not, TDA will enter the new name of the CE on an amendment form and send it to the CE that will then sign the form and return it to TDA. Upon receipt and approval of the signed amendment form, TDA will sign the form and a copy will be returned to the CE for its files.
These amendments can be initiated by either TDA or the CE. An amendment initiated by a CE to add or delete a program can be withdrawn. The CE may decide not to participate in the program being added or continue participation in the program being deleted. In the event that a CE decides to withdraw an amendment, it must inform TDA in writing.

Failure to return a contracting entity-specific amendment, or to notify TDA it intends to withdraw the action, could result in placement in the serious deficiency process. Refer to Section 10000, *Serious Deficiency* for additional information.

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2440.3 Application/Management Plan Changes

The Permanent Agreement stipulates that a contracting entity (contractor) will perform according to its application, supporting documents, and approved amendments. Therefore, approved changes to the application and management plan do not require an amendment to the Permanent Agreement.

A CE must submit changes as they occur to ensure TDA has the most current information on its Program operation, including budget amendments that do not change the actual amount of the total budget.

EXAMPLE: If a CE wants to increase its expenditure on facilities and space by an additional $100 per year and reduce expenditures on media costs by $100 per year, TDA must approve the proposed changes for each cost category in advance even though the total amount of the budget would remain unchanged.

Independent Contracting Entities

Independent CEs will request changes to their application and management plan through TX-UNPS. If necessary the CE will also upload information or mail, fax or email it to complete the change request.

CEs will not be required to complete and maintain the corresponding paper form for the change(s) submitted, however CEs may choose to do so or may print a copy of the TX-UNPS screens for their Program files.

For those independent CEs that do not have access to the Internet or to TX-UNPS, changes may be submitted by contacting TDA for a paper version of the applicable section(s) in TX-UNPS and mailing, faxing or emailing it to TDA.

Claims for reimbursement may be delayed or negatively affected if a CE fails to properly request changes in advance.

Contracting Entities that are Sponsoring Organizations

Sponsors will request changes to the Application and Management Plan, or changes to the sponsored site's application, through TX-UNPS. If necessary, sponsors will also upload information or mail, fax or email it to complete the change request.

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Sponsors must maintain a completed site application for each change submitted on behalf of an unaffiliated sponsored site, either through TX-UNPS or via paper as well as provide a copy to the sponsored site.

NOTE: Sponsors can make amendments to the site application on behalf of their participating unaffiliated sites without first obtaining the site representative's signature. Copies of the site application must be maintained with the Program files, and copies must be sent to the site for its files.

For other documentation required for sponsored sites, reference Item 4231, *Adding, Terminating, and Making Changes to Sites*, in this handbook.

For those sponsors that do not have access to the Internet or to TX-UNPS, changes may be submitted by contacting TDA for a paper version of the applicable section(s) in TX-UNPS and mailing, faxing or emailing it to TDA.

Claims for reimbursement may be delayed or negatively affected if a CE fails to properly request changes in advance.

2500 Training

There are mandatory training requirements for both current and potential CEs in the Program.

The organization will receive a training certificate after a representative of the organization successfully completes the training. Certificates are awarded in the name of the organization, rather than in the name of an individual who completes the training and are not transferrable between organizations. The organization must retain the training certificate with its Program records.

NOTE: Training expenses are an allowable expense if they are included in the CE's approved budget.

Potential Contracting Entity Training

A representative of the organization must complete *Introductory Training for New CACFP Contractors* as part of the application process, before its application to participate can be approved and a Permanent Agreement can be executed. A representative from a currently participating SFSP sponsoring organization's administrative staff must receive this training prior to application approval.

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To locate *Introductory Training for New CACFP Contractors*, check the TDA website at http://www.squaremeals.org. Select the F&N Resources from the menu at the top of the screen, choose training, and then select Introductory Training for New CACFP Contractors and complete the applicable training.

When a representative completes the training session, they will receive a training certificate. The organization may be asked to submit the training certificate along with any other documents requested to complete its application.

If the organization's representative fails to complete the entire training session, they will not be given a certificate of training. A representative of the organization may enroll in the next regularly scheduled *Introductory Training for New CACFP Contractors*. The application will not be approved until this training is completed.

It is recommended that the representative(s) who receive the training be either the owner(s) or director(s) of the center and be able to provide training to all persons in the organization who will have Program responsibilities.

If …	**Then …**
The organization previously participated in the Program, but withdrew for any reason.	A representative of the organization must complete *Introductory Training for New CACFP Contractors* prior to resuming participation in the Program.
The organization experienced a complete legal identity change and the principal staff changed.	A representative of the new organization must complete *Introductory Training for New CACFP Contractors* prior to approval for participation in the Program.
The organization had a name change, but the Employer's Identification Number (EIN), or other documentation establishing legal identity remained the same, and the principal staff did not change.	The organization would not be required to attend *Introductory Training for New CACFP Contractors* again.
The organization experienced a complete legal identity change but the principal staff did not change.	The organization would not be required to attend *Introductory Training for New CACFP Contractors* again, unless TDA determines that training would be helpful.

NOTE: Training can be completed prior to application submittal; however, it is only valid for one year from the date of the training. An organization that does not submit its application to TDA before the year expires will have to attend the training again.

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Mandatory Contracting Entity Training

After the application is approved, TDA may require that a representative of the CE attend one or more mandatory training sessions during each PY. CEs will receive notification of any mandatory training they will be required to attend. Refer to Item 4236, *Training and Education*, for additional information related to annual training requirements.

Staff Training

CEs must train each staff member before they assume any Program duty, and must document its procedure in the management plan. Further, CEs must train each staff member during each PY thereafter. CEs must document the training and retain this documentation with their records. Refer to Item 4236, *Training and Education*, for specific information.

2600 Visit Prior to Approval

TDA conducts visits to organizations that are not currently participating in the Program prior to approval of an application and execution of the Permanent Agreement.

The purpose of the visit is to:

- Provide technical assistance;
- Assess the potential CE's ability to successfully manage and operate Program activities;
- Verify the information submitted in the application and supporting documents;
- Verify the center's ability to provide a meal service;
- Verify the resources that are dedicated to successfully managing Program activities.

Additionally, TDA will review and assess any Program documentation already being maintained by the organization, to determine whether it qualifies to claim reimbursement for meals that were served during the month prior to the month in which its application is approved.

NOTE: Inconsistencies between TDA's observations and the information that was submitted with the application and/or during the visit could result in the denial of the application, and/or placement in the serious deficiency process.

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EXCEPTIONS:

TDA will not conduct a visit prior to approval for

- SFAs currently participating in the NSLP/SBP
- Sponsoring organizations currently participating in SFSP that are in good standing (meaning the SFSP sponsor is not currently in the serious deficiency process for mismanagement in the SFSP) applying to participate with sites that are currently participating in the SFSP

2700 Application Renewal

The CACFP PY corresponds with the federal fiscal year, October 1 - September 30. A CE is required to submit a renewal application each year. However, the information provided on certain checklist items is routinely valid for a longer period.

As a result, TDA may retain documents from a prior PY, thereby reducing the number of items that a CE must submit for additional program years.

Additionally, some information in TX-UNPS will "roll-over" each PY, and some information will not. The information that rolls-over must be reviewed and updated by the CE as needed. The information that does not roll-over will need to be re-entered by the CE. Failure to complete all items will delay the renewal process and could result in termination.

CEs with less than two years participation in the Program and/or those that experienced operational issues (for example, placement in the serious deficiency process at any time in the prior three program years, owe a debt to TDA, in the claim validation process) will be required to submit significantly more information during the renewal period. TDA will identify these CEs prior to renewal and notify those CEs via email of their renewal requirements.

CEs that do not have access to the Internet or to TX-UNPS may submit the renewal application via manual methods. Start by requesting a paper copy from TDA at 877-TEX MEAL (877-839-6325). Complete the paper forms and mail, fax or email them to TDA. Please note that submitting a renewal via paper forms may delay the renewal process.

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2800 Forms

CEs may obtain TDA provided forms online by accessing the TDA website at http://www.squaremeals.org. CEs will be notified via the TX-UNPS bulletin board or other means when a form has been revised and posted on the website.

Most forms (for example, *Certificate of Authority*) are posted in both Word and PDF format. A few forms may be in Excel. If a CE is having problems printing a form in one format, TDA recommends using another format. The problems a CE could experience might be due to the printer settings of the individual user's computer or printer. In such cases, contact the CE's Information Technology (IT) department or the support service for the specific type of software, hardware, or printer.

TDA also provides some sample forms, in word format only, in Section 11000, *Resources*, of this handbook. If a CE is unable to print these forms correctly, TDA recommends using the copy and paste process. Copy the form and paste it into another word document and format them in a way that works with current printer settings being utilized.

Although TDA is committed to helping CEs operate a successful Program, TDA cannot correct individual user issues with software or hardware.

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Section 3000
Program Agreement

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3300 Technical Assistance

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Program Agreement

Upon approval of an organization's application, the Texas Department of Agriculture (TDA) enters into an agreement with the organization that stipulates the rights and responsibilities of TDA and the contractor (contracting entity (CE)). The Permanent Agreement is a legally binding document between TDA and the organization named on the agreement and is not transferable and cannot be sold.

A potential CE that is not currently participating in a TDA-administered nutrition program must submit the Permanent Agreement with its application for participation. A CE that participates in one or more TDA-administered nutrition program and applies for another program or subset will complete and submit a *Permanent Agreement Contracting Entity Specific Amendment* with the application for the new program or subset.

CEs must comply with all policies, guidance, state rules (Texas Administrative Code), notices, Program handbooks, and handbook revisions issued by TDA. CEs must also comply with all instructions, guidance, regulations and handbooks issued by the United States Department of Agriculture (USDA).

TDA notifies CEs of newly released policies, revised policies, forms and handbooks, and requirements via email and the TX-UNPS bulletin board. Upon receipt of a notification, CEs can go to the TDA website at http://www.squaremeals.org, select Child and Adult Care Food Program, then CACFP Policy & Handbook or CACFP Administration & Forms as appropriate.

USDA or organizations USDA has contracted with periodically perform Program research or Program evaluations. CEs and sponsored sites are required to cooperate with USDA or organizations USDA contracts with when contacted to be part of research or evaluation. A Program evaluation would be similar to a review conducted by TDA staff.

Failure to cooperate with USDA or organizations USDA contracts with could result in adverse action, up to and including placement in the serious deficiency process and termination of the Permanent Agreement.

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3100 Program Requirements

An independent CE is fully responsible for the operation of the Program in its center. A CE that is a sponsor is fully responsible for the operation of the Program in the sites it sponsors (both affiliated and unaffiliated). A CE's responsibilities can be divided into the following general categories:

- Avoiding conflicts of interest;
- Providing and claiming reimbursable meals;
- Operating a nonprofit food service;
- Managing the Program;
- Training and monitoring; and
- Maintaining Program documentation.

NOTE: If a CE fails to comply with any of these Program requirements and responsibilities, its participation in the CACFP may be adversely affected up to and including placement in the serious deficiency process, termination of its Permanent Agreement, and placement on the National Disqualified List (NDL).

3110 Conflicts of Interest

A conflict of interest means a conflict between an individual's personal financial interests and his/her public obligations.

FNS Instruction 796-2, *Financial Management –Child and Adult Care Food Program*, allows a CE to claim costs for certain transactions when the relationship between the parties is fully disclosed.

Organizations participating in the Program are required to identify and disclose related party transactions, less-than-arms-length transactions, ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information to aide TDA in making an informed assessment in determining if costs are allowable.

CEs must establish and maintain a written code of standards of conduct. This document must be made available upon request to any member of its organization or any employee or representative of TDA, USDA, the Government Accountability Office (GAO) or an independent auditor.

Refer to Section 7000, *Financial Management*, for more information regarding conflicts of interest. If a CE has any concerns or questions regarding the appropriateness of a procurement transaction, it should contact its Education Service Center (ESC) or Community Operations Field office for guidance prior to completing the transaction.

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3120 Reimbursable Meals

A CE must ensure that meals served and claimed for reimbursement are eligible according to Program requirements. Sponsors must ensure the same for their sponsored sites. To be eligible, or reimbursable, meals must:

- Meet Program meal pattern requirements
- Be served to eligible children
- Be served according to federal and state regulations and policies
- Be supported with required documentation

3130 Nonprofit Food Service

A CE must operate a nonprofit food service in compliance with Program requirements. CEs must use all Program funds to conduct or improve the food service operation principally for the benefit of the children. Refer to Section 7000, *Financial Management* for guidance on proper use of funds and financial management, and Section 9000, *Terms, Definitions and Acronyms* for the definition of nonprofit food service.

3140 Program Management

By entering into an agreement with TDA, the CE assumes final administrative and financial responsibility for management of a proper, efficient, and effective food service, and will comply with all Program requirements. CEs that are sponsoring organizations accept final administrative and financial responsibility for food service operations in all of its sites.

CEs may not contract out the management of the Program; however, they may contract some Program activities required in the administration/management of the CACFP.

Should the CE choose to retain the services of a contractor to perform one or more Program activity, the CE is required to retain oversight of the work performed and accepts final administrative and financial responsibility for the work performed by the contractor, including repayment of any funds due to non-compliance(s).

CEs **may not** contract the following Program activities:

- Monitoring,
- Corrective action,
- Preparation of application materials, and
- Claims submission.

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It is important to note that, although a CE may not contract out the responsibility for certain activities; it is acceptable to contract for services in support of that activity. For example, the CE must retain responsibility for the monitoring activity; however, it may contract for the performance of monitoring reviews.

These administrative and financial responsibilities are described in federal and state laws, regulations, and policies, and in the CE's approved application and Permanent Agreement. The CE must not deviate from its approved application/management plan or budget without TDA's prior written approval.

Specific Program activities that **may** be subcontracted include, but are not limited, to:

- Bookkeeping,
- Auditing,
- Data processing,
- Service of a nutritionist,
- Staff trainings, and
- Monitoring reviews.

In order to contract specific Program activities, the CE must ensure that the

- Services to be performed by the contractor are required in the administration/ management of the CACFP;
- Services have been properly procured according to Program procurement guidelines;
- Terms of the agreement are adequate for the services to be performed;
- Costs are reasonable in relation to the services to be performed; and
- Costs are not contingent on the CE's receipt of CACFP reimbursement.

Written agreements must be established with a contractor if the activities to be performed by the contractor are directly related to the CACFP. Refer to Section 7000, *Financial Management* Item 7330.2, *Contract Provisions* for specifics.

Program Management Software: TDA does not approve or endorse software packages for use by CEs to manage participation in the CACFP. CEs may purchase program management software of their own selection. However, the CE is responsible for ensuring that the software supports its participation in the CACFP according to Program requirements.

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NOTE: Federal Publishing Limited, Inc. (aka Federal Publication), of Miramar, Florida, markets a publication entitled "**USDA** United States Department of Agriculture and **FDA** Food and Drug Administration Compliance Journal 2007". This publication is not issued or approved by USDA, nor is it required for CEs' participation in the CACFP. Materials and guidance regarding compliance with the Program are available at no cost on our website at www.snptexas.org, as well as the USDA websites at www.fns.usda.gov/cnd/ or www.fnd.usda.gov/fns/food_safety.htm.

3150 Waiver of Program Requirements

A CE may submit a written request to waive certain Program requirements. Prior to submitting a request to waive a Program requirement the CE must evaluate its intent for requesting the waiver. A waiver will not be granted if it cannot be determined that granting the waiver will support the purpose and intent of the Program.

The written request must include:

1. **Challenge(s) the CE is seeking to solve, goal(s) of the waiver to improve services, and the expected outcomes** –
   - Describe the problem that the CE is seeking to solve. Include a description of any impediments to the efficient operation and administration of the program.
   - Describe what has been done to solve this problem within the scope of the regulatory requirements and what in the regulations or statute prevents this problem from being solved.
   - Describe of the goal of the waiver to improve services under the applicable program(s) and the expected outcomes if the waiver is granted.
   - Describe how the waiver would improve services under the applicable program(s).

2. **Regulatory citation(s) and requirement(s) –** Identify the specific statutory or regulatory requirements requested to be waived for the applicable program(s).

   NOTE: TDA and USDA will not consider waiver requests that relate to any of the following topics:
   - Nutritional content of meals served
   - Federal reimbursement rates
   - Provision of free and reduced price meals
   - Limits on the price charged for a reduced price meal
   - Maintenance of effort (not decrease or affect the expenditure of funds from state and local sources for the maintenance of the Child Nutrition Programs)
   - Equitable participation of children in private schools
   - Distribution of funds to TDA and CEs

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- Disclosure of individual income eligibility information
- Prohibition of the operation of a profit producing program
- Sale of competitive foods
- USDA Foods
- Special Supplemental Nutrition Program (WIC)
- Enforcement of any constitutional or statutory right of an individual

3. **Description of alternative procedures and anticipated impact of implementation–**
   - Provide a description of the alternative procedures that could be used to solve the problem while maintaining the intent and purpose of the applicable program(s) if the waiver is granted.
   - Describe the anticipated impact on applicable program operations, including technology, State systems, and monitoring.

4. **Anticipated implementation challenges –** Describe any anticipated challenges the CE may face with implementation of the waiver, if granted.

5. **Anticipated implementation date and time period for which waiver is needed –** Provide the beginning and ending date for the requested waiver.

   NOTE: USDA provides approval of waivers for a limited time period. After the initial waiver period has expired, the CE may request renewal of a waiver.

6. **Overall cost to the applicable program(s) –**
   - Describe how the waiver will not increase the overall costs of the applicable program and, if it does, how any additional costs will be paid from non-Federal funds. For example, provide an explanation of what the anticipated cost will be, if any.
   - Address whether the waiver will increase program participation and claims for reimbursement.

7. **Proposed monitoring and review procedures –**
   - Describe how the CE will monitor and review operations of the waiver to ensure the proper oversight and integrity of the applicable program(s). If applicable, include monitoring details to ensure increased costs of the applicable program will not be paid from Federal funds.

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8. **Proposed reporting requirements –**
   - Describe how the CE will report to TDA on the outcome of the waiver implementation, if it is approved, including details on how the implementation of the waiver and its effect on the efficient operation and administration of the applicable program will be evaluated. For example, what data points would be useful to determine if the waiver was successfully implemented? The CE must report this information to TDA within 60 days of the end of the waiver period.

9. **Notification to the public –**
   - Describe how the CE provided notice and information to the public regarding the proposed waiver prior to submitting the waiver request to TDA. A link or copy of the public notice about the proposed waiver must be included with submission of this form to TDA.

   NOTE: Acceptable methods public notification include, but are not limited to, the following:
   - Posting notice on the CE's website;
   - Providing public notice through a printed announcement in the local/state newspaper.

CEs may use the TDA *Child Nutrition Program Waiver Request Form* located at http://www.squaremeals.org. The completed request should be submitted to TDA at least 90 days prior to the desired implementation to allow adequate time for review.

Upon receipt TDA will evaluate the request and forward the request to USDA for final approval or denial. Denial of a request is not an appealable action.

3160 Program Documentation

CEs and sites must maintain all records necessary for state and federal authorities and their agents to evaluate the operation of the Program. A CEs and sites must maintain Program records separately from the records of other nutrition programs in which they participate. If a CE's or site's participation in the at-risk afterschool care center component of the Program is terminated for any reason, they must maintain, for a period of three years from the last day of the Program year to which they pertain, all records related to the Program services that they provided and for which a claim was submitted.

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If there is unresolved litigation, claims, audits, or investigations, CEs and sites must maintain the records until the matters are resolved or for three years, whichever is longer. These actions are considered resolved when a final order is issued in litigation or when the CE and TDA sign a written agreement.

3200 Program Payments and USDA Foods

During a CE's participation in the Program, it can expect to receive the following from TDA:

- Program management training.
- Technical assistance.
- Program payments to assist with the cost of:
  - Providing meals.
  - Obtaining required audits (as funds are available), if requested.
- A cash reimbursement in lieu of USDA Foods, if applicable.

The amount and type of assistance that a CE receives will depend on the nature of their organization and the availability of USDA funds.

A CE receives reimbursement based on a combination of factors, including the:

- USDA rates of reimbursement, and
- The number of reimbursable meals served to eligible children., and
- Eligibility category of each child (all at-risk meals are reimbursed at the free rate).

If a CE receives unearned reimbursement, it must return the unearned portion to TDA.

Unearned reimbursement can occur due to many factors, such as:

- Claim submission errors resulting in a downward adjustment by the CE
- Meal disallowances taken as a result of an administrative review
- Unallowable costs determined as a result of an administrative review

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3210 Food Service Payments

3211 Reimbursement for Meals

CEs (and sponsored sites) are reimbursed for part of the cost associated with meal service in the CACFP. CEs must ensure that meals served to children meet CACFP requirements. Sponsors must ensure meals served by their sites meet CACFP requirements.

At each meal service, the CE/site must take an actual count of children who are present and the number of meals served to them. The count must be taken at the point of service (that is, where a child receives a reimbursable meal), and recorded on the *Daily Meal Count and Attendance Record* (H1535), and/or the *Daily Meal Count and Attendance Record* (At-Risk) (H1535-AT), or alternate form.

Each month the CE must submit this data by completing its claim in TX-UNPS or manually via the paper *CACFP – Centers Claim for Reimbursement*. TDA will use this data to determine the reimbursement for each meal service each month.

A CE must submit an adjusted claim and return any food service overpayment to TDA if:

- The CE discovers an error in its records or its site's records after submission of a claim for the affected month; or
- An audit of the CE's organization results in a finding or exception that an overpayment was made.

A CE must submit the adjusted claim prior to returning any funds to TDA. After the adjusted claim is processed, TDA will notify the CE of any debt and provide instructions for returning the funds. Generally, the debt will be deducted from the next claim submitted.

Additionally, a sponsor must return to TDA any food service payments it is unable to disburse to a site. For example, site has moved/closed, or the check written to a site is not deposited by its expiration date.

If a sponsor must return food service payments that it was unable to disburse it must submit a letter that includes the:

- Amount of funds being returned,
- Name of the site, and site ID number, for which the funds were intended,
- Reason it was unable to disburse the funds to the site,
- Claim month and year to which the funds apply, and
- CE ID number.

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The sponsor must send the letter along with the funds to TDA, and should retain a copy of the letter and supporting documentation for its records. **NOTE:** Do not send cash.

Returned food service payments must be sent to:

Texas Department of Agriculture
Food and Nutrition
Attn: Director for Business Operations
P.O. Box 12847
Austin, Texas 78711

3212 Disbursing Reimbursement to Sponsored Sites

Only applies to CEs that sponsor <u>unaffiliated</u> sites.

CEs must disburse reimbursement to their sponsored sites within five workdays of receipt of the reimbursement. Refer to Item 4264.2, *Sponsors of Unaffiliated Sites* in this handbook for documentation requirements.

3220 Advance Payments

3221 Eligibility

A CE may be eligible to receive advance payments if the CE:

- Requested advances in its application.
- Is not indebted to TDA from a previous Program year in any Child Nutrition Program in which it participates.

3222 Processing and Receipt Deadlines

When funds are available, TDA will provide advance payments. If funds are not available to provide both advance payments and reimbursement for claims, TDA will only reimburse claims.

Advances will not be issued for the months of September and October of each year. During those months TDA will <u>only</u> reimburse CEs for their claims.

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3223 Determining the Amount of Advance Payment

A CE may choose to receive a full, partial or half advance payment for meal reimbursement.

A full advance is 100 percent of the amount of reimbursement projected to be earned during the month for which the advance payment is issued. A partial advance is 75 percent of this same amount, and a half advance is 50 percent of that same amount.

The initial advance payment for new CEs that don't have a claim history is based on anticipated number of meals that would be served to children during the month multiplied by the reimbursement rate per meal specified by USDA. Once a CE has a claim history, advances are calculated based on the last claim submitted.

3224 Disbursing Advance Payments to Sponsored Sites

Only applies to CEs that sponsor <u>unaffiliated</u> sites.

CEs must disburse advances to their sponsored sites within five workdays of receipt of the advance. Refer to Item 4254.2, *Sponsors of Unaffiliated Sites* in this handbook for documentation requirements.

3225 Recouping Advance Payments

TDA recoups at-risk afterschool care center advance payments for the current Program year beginning with May claims. (**NOTE**: If a CE participates in traditional CCC as well recoupment begins in July).

If, after recoupment of the advances from the May claim a CE has an outstanding balance, TDA will recoup the remainder from each subsequent claim until the debt is repaid. During this recoupment period the CE will not receive an advance for the next Program year unless or until the debt is paid.

3226 Discontinuing Advance Payments

Discontinuation of advance payments could occur for the following reasons:

- TDA believes a CE will be unable to submit a valid claim for reimbursement covering the month(s) for which advance payments have already been made.
- TDA has evidence that the CE has been deficient in operating the Program in the current or prior Program year.
- The CE owes for an advance overpayment at the end of the Program year

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- The CE owes any other debt to TDA.
- The CE does not submit valid claims and/or required audit reports.
- The CE submits a written request to stop receiving advances.

Once advances have been discontinued, the CE may submit a request that advances be reinstated via the advance request screen in TX-UNPS if it wants to begin receiving advances again.

If advance payments are discontinued for any reason, the CE will not receive retroactive advance payments for the month(s) in which its advances were discontinued.

3230 Earned Interest

A CE may retain and use any interest it earns on reimbursements and advances as long as the interest is used for allowable Program costs and is reported as income to the Program, however; there are different requirements that apply to the interest earned on reimbursement and advances. For example, there is a limit to the amount of interest a CE can retain and use in the Program when the interest is earned on advance funds. For additional guidance on reporting earned interest, refer to FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

3240 USDA Foods

Child care centers that meet *The Emergency Food Assistance Program* (TEFAP) definition of "charitable institution" may participate in both the CACFP and the TEFAP. TEFAP is an emergency food assistance program that supplies USDA Foods to eligible recipients through organizations such as soup kitchens, pantries, or other organizations. Federal regulations do not allow recipients of USDA Foods, either through direct distribution or in prepared meals, to be charged (payments in money, materials or services) for receipt of USDA Foods.

CACFP cash-in-lieu funds must be kept separate from other funds, including TEFAP administrative funds, since cash-in-lieu funds must only be used to purchase or obtain foods for use in the CACFP. Child care centers may use CACFP cash-in-lieu funds at food banks to obtain non-USDA Foods.

3241 USDA Foods or Cash-in-lieu

Each year during the application process, TDA conducts a survey to determine if CACFP CEs would prefer to receive USDA Foods or a cash payment instead of USDA Foods. This cash payment is referred to as "cash-in-lieu of commodities."

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USDA Foods are foods that USDA purchases in large quantities. They can be a useful addition to a CE's Program if they are able to use them without waste. If a sufficient percentage of CACFP CEs prefer to receive the value of the USDA Foods to which they are entitled in cash, rather than the USDA Foods themselves, TDA will provide cash to all CEs for each lunch and supper served to eligible children according to the established reimbursement rate.

The amount of cash-in-lieu of commodities is a standard rate that is adjusted by USDA each July 1.

3242 Cash-in-lieu

CACFP CEs are:

- Not allowed to use cash-in-lieu funds to pay fees charged by food banks for donated foods that include USDA Foods.
- Allowed to use cash-in-lieu funds to pay fees charged by food banks to provide food donated from a source other than USDA.
- Allowed to use funds other than cash-in-lieu funds to pay fees charged by food banks for donated foods that include USDA Foods.

A CE must document the source of any funds it uses to obtain USDA Foods.

3300 Technical Assistance

Education Service Center (ESC) and TDA staff is available to provide technical assistance to help a CE complete the CACFP application and operate the Program. If a CE has a question that is not answered in this handbook or if clarification of information contained in this handbook is needed, the CE should call its ESC or TDA to request assistance.

A list of ESC offices and Food and Nutrition Community Operations Field offices is located in Section 11000, *Resources*.

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Managing the Program

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Managing the Program

By agreeing to participate in the CACFP (Program), the contracting entity (CE) accepts final administrative and financial responsibility for operating the Program in its independent child care center and/or sponsored site(s). These responsibilities are described in federal and state laws, regulations, and policies and in the CE's approved application and Permanent Agreement. The CE must not deviate from its approved budget and application/management plan without TDA's written consent.

Either directly or through its site(s), a CE must:

- Prepare and serve reimbursable meals.
- Operate a nonprofit food service.
- Manage Program activities.
- Document the Program activities as required.

4100 Reimbursable Meals and Snacks

CEs and sites must comply with Program requirements, including meal patterns, to receive reimbursement for meals and snacks. A reimbursable meal or snack is one that meets the meal pattern requirements (contains all required components in at least the minimum required portion sizes) and is served to an eligible child.

4110 Meal Service

The meal patterns guide the preparation of well-balanced and nutritious meals. The meal patterns are a flexible framework that enables the CE and sites to choose from a wide variety of foods when planning and serving nutritious meals. Variations in the meal patterns can be considered for religious, cultural, and ethnic eating preferences when planning menus.

CEs and sites may not use meals, or components of a meal, as a way to reward or punish a child under any circumstance.

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4111 Planning of Meal Service

CEs and sites are encouraged to plan meals at least two weeks in advance of a meal service to assist in food-purchasing, cost control and the scheduling of food preparation. Often children's diets lack sufficient nutrients, such as iron and vitamins A and C, therefore; TDA recommends using foods that are good sources of these nutrients. Planning menus in advance, incorporating seasonal fruits and vegetables, will help CEs and sites plan menus that will increase nutrient intake and promote healthier eating.

CEs and sites must plan for and prepare or order meals on the basis of current participation trends with the objective of providing only one meal per child at each meal service, and minimizing waste.

Using the appropriate Program meal pattern, and Health and Human Services Commission (HHSC) Child Care Licensing requirements (if applicable), CEs and sites should vary the form, size, shape, color, texture, flavor, and temperature of foods that are offered. Sponsors should review their sites' menus in advance to reduce the number of disallowed meals.

Links to training and resources to assist CEs in planning and preparing healthy meals can be found at http://www.squaremeals.org under F&N Resources, and Publications. TDA also provides trainings through the Education Service Centers (ESCs) on topics such as menu planning, planning nutritious snacks, and kitchen math. Classes can be found at http://www.squaremeals.org under F&N Resources, by selecting the Training link.

Best Practices

The following recommendations are best practices and not required for Program compliance. The use of these best practices is optional and intended to further strengthen the nutritional quality of the meals served.

- Vegetables and Fruits
  - Make at least one of the two required components of a snack a vegetable or a fruit
  - Serve a variety of fruits and choose whole fruits (fresh, canned, frozen, or dried) more often than juice
  - Provide at least one serving each of dark green vegetables, red and orange vegetables, beans and peas (legumes), starchy vegetables, and other vegetables once per week
- Grains
  - Provide at least two servings of whole grain-rich grains per day

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- Meat and Meat Alternates
  - Serve only lean meats, nuts, and legumes
  - Limit serving processed meats to no more than one serving per week
  - Serve only natural cheeses and choose low-fat or reduced-fat cheeses
  - Serve only low-fat or fat-free yogurt
- Milk
  - Serve only unflavored milk to all participants. If flavored fat-free (skim) milk is served to children 6 years old and older, or adults, use the Nutrition Facts Label and select and serve flavored milk that contains no more than 22 grams of sugar per 8 fluid ounces, or the flavored milk with the lowest amount of sugar if flavored milks within this sugar limit are not available
- Additional
  - Incorporate seasonal and locally produced foods into meals
  - Limit serving purchased pre-fried foods to no more than one serving per week
  - Avoid serving non-creditable foods that are sources of added sugars, such as sweet toppings (e.g., honey, jam, syrup), mix-in ingredients sold with yogurt (e.g., honey, candy or cookie pieces), and sugar-sweetened beverages (e.g., fruit drinks or sodas)

3E's of Healthy Living

TDA is committed to the 3E's of Healthy Living – Education, Exercise, and Eating Right. As part of that commitment, the CACFP initiative "*Promoting Healthy Eating and Physical Activity for a Healthier Lifestyle"* is the TDA avenue to promote a healthier lifestyle, including healthy eating and physical activity for children ages 2 – 5 years.

The Healthier Child and Adult Care Food Program Recognition Award (HCACFPRA) is a recognition system that supports the wellness efforts of child care centers participating in the Program. Child care centers taking steps to improve the menus, physical activity, nutrition education and/or environment for children in their care can apply to win an award in one of more of these categories. Three award levels are offered: Bronze, Silver, and Gold.

In order to participate in the HCACFPRA, CEs must complete a request for application (RFA) for the Establishing 3 E's (E3Es) grant. Grant opportunities are released March/April. When the E3Es RFA is released, the CE will complete the RFA based on the level and category(ies) for which they wish to apply. Applicants must choose the Menus category plus one or more of the remaining categories they would like to apply for and at which level. The grant application awards are based on a competitive scoring process. CEs will be contacted if there application was selected for a grant award. Grantees have one year to complete their plan as stated in the RFA to obtain a recognition award level.

Centers/sponsors will be recognized by TDA at the completion of the grant period. TDA will showcase the child care center's achievements at the CACFP State Conference. Award kits based on the award level achieved will be presented or mailed to the CE.

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CEs and sites are valuable partners in the challenge to improve the health of Texans, prevent obesity, and model better eating habits for Texas children.

Cycle Menus

A cycle menu is one that is different every day, planned for a specified period of time (e.g., 1 to 2 weeks or 3 – 4 weeks) and then repeated.

Cycle menus can help CEs and sites save time and labor by:

- Reducing menu planning time
  - The cycle menu is planned weeks in advance thereby cutting menu planning time
- Streamlining purchasing procedures
  - CEs and sites know in advance what items are needed and where possible can obtain those items more efficiently and at a cost savings
- Standardizing food production
  - Staff become more familiar with the recipes and more efficient in producing them
- Reducing storage and food waste
  - CEs and sites know through history how much of each component to keep on hand and how much of each items to make

CEs and sites are not required to use cycle menus. If cycle menus are used, CEs and sites are encouraged to evaluate them periodically to ensure they are providing a variety of food options as well as providing cost and time savings.

4112 Meal Pattern Requirements

The meal pattern chart shows the *minimum* amounts of each required component that must be provided to each child for a meal to qualify for reimbursement. Children may be served larger portions, but at a minimum must be served the quantity specified in the meal pattern charts for each component. CEs and sites may serve any additional food that they choose. Serving sizes vary for children of different ages.

For any meal to be eligible for reimbursement all food components in the required minimum serving sizes must be offered at the same time.

CEs and sites should become familiar with the following terms as they will be used throughout:

- A food component is one of the food categories that comprise a reimbursable meal. CACFP centers must always offer all the food components that comprise a reimbursable meal in at least the minimum required amounts. The food components in the CACFP are: grains, vegetables, fruits, meat/meat alternates, and milk.

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- A food item is a specific food offered within the food components comprising the reimbursable meal. For example, separate ½ cup servings of broccoli and carrots are two food items that comprise the vegetable component.
- A combination food contains more than one food item from different food components that cannot be separated, such as a vegetable pizza. A vegetable pizza contains three food items from three different food components: a serving of grains (crust), a serving of vegetables (vegetable toppings), and a serving of meat alternate (cheese). Other examples of combination foods are soups, prepared sandwiches, and burritos.

All serving sizes and equivalents must be as specified in the *Food Buying Guide* (FBG) for Child Nutrition Programs as published by USDA. A link to the FBG is located on the TDA website at http://www.squaremeals.org, under F&N Resources, Tools & Links. The FBG Calculator and Crediting Handbook for the Child and Adult Care Food Program are also available. The calculator allows users to build shopping lists of foods from the FBG and determine how much of each item to purchase to provide enough servings for participants in their Program.

The Crediting Handbook provides crediting information for commonly served foods. Additionally, USDA provides a FBG Mobile App which provides quick access to food yield information for quick purchasing decisions. The mobile app can be downloaded from USDA's website at https://www.fns.usda.gov/tn/food-buying-guide-for-child-nutrition-programs.

Foods not listed in the FBG may be served in CACFP using the yield information of similar food or in-house yield with TDA approval. Instructions for developing yield information are available in the introduction section of the FBG. Requests for approval must be submitted to:

Texas Department of Agriculture
Attn: F&N CACFP Nutrition Specialist
P.O. Box 12847
Austin, TX 78701

Fax: (888) 203-6593
Attn: F&N CACFP Nutrition Specialist

Email: Nutrition@TexasAgriculture.gov
Attn: F&N CACFP Nutrition Specialist

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4112.1 Meal Pattern Chart – Children One Year and Older

BREAKFAST FOOD COMPONENTS Must Serve All Three Components for a Reimbursable Meal		Age 1 - 2	Age 3 - 5	Age 6 – 12	Age 13 - 18[1] (at-risk afterschool programs and emergency shelters)
Milk[2,3]	Milk, fluid	4 fl oz	6 fl oz	8 fl oz	8 fl oz
Vegetables, Fruits, or portions of both[4]	Vegetable(s) and/or fruit(s)	1/4 cup	1/2 cup	1/2 cup	1/2 cup
Grains (oz eq)[5,6,7]	Whole grain-rich or enriched bread	1/2 slice[10]	1/2 slice[10]	1 slice[10]	1 slice[10]
	Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	1/2 serving	1/2 serving	1 serving	1 serving
	Whole grain-rich, enriched or fortified cooked breakfast cereal[8], cereal grain, and/or pasta	1/4 cup	1/4 cup	1/2 cup	1/2 cup
	Whole grain-rich, enriched or fortified ready-to-eat breakfast cereal (dry, cold)[8,9]				
	• Flakes or rounds	1/2 cup	1/2 cup	1 cup	1 cup
	• Puffed cereal	3/4 cup	3/4 cup	1 1/4 cups	1 1/4 cups
	• Granola	1/8 cup	1/8 cup	1/4 cup	1/4 cup

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[1] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

[2] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim) milk or flavored fat-free (skim) or low-fat (1%) milk for children six years old and older. *Texas Health and Human Services Commission (HHSC) Child Care Licensing (formerly TDFPS CCL) does not allow flavored (sweetened) milk, except for special occasions.*

[3] USDA requires water be made available at all meals and upon request however water does not take the place of milk. *HHSC CCL requires that water is always available to each child and is served at every snack, mealtime, and after active play in a safe and sanitary manner.*

[4] Pasteurized full-strength juice may be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

[5] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

[6] Meat and meat alternates may be used to meet the **entire** grains requirement a maximum of three times a week. One ounce of meat and meat alternates is equal to one ounce equivalent of grains.

[7] FNS has extended until October 1, 2021 the deadline for implementing ounce equivalents to determine the quantity of creditable grains. The extension allows more time for FNS to develop additional technical assistance materials and for TDA and CEs to provide training and technical assistance to support meal planners. In the interim, CEs are encouraged to transition to using ounce equivalents, rather than household measures such as cups or "servings," to determine the quantity of creditable gains. Assistance for this transition is available via applicable FNS-sponsored training webinars; tools such as the *Recipe Analysis Workbook* and *Exhibit A Grains Tool* sections of the *Food Buying Guide for Child Nutrition Programs*; and TDA's meal pattern training modules and Q&As located on the CACFP Meal Patterns page on SquareMeals.org. **NOTE**: CN Labeled items that currently indicate the number of ounce equivalence of grains in a product contribute to the CACFP as declared on the label as an ounce equivalent serving size (16 grams of grains) is slightly heavier that the current serving size for CACFP (14.75 grams of grains).

[8] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

[9] Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereals is 1/4 cup for children ages 1-2; 1/3 cup for children ages 3-5; 3/4 cup for children ages 6-12 and ages 13-18.

[10] Slice is not a measurable unit. A measurable amount of each food item prepared must be entered on the Daily Meal Production Record. Examples of how to document a measurable amount for bread slices can be found on the instructions to the Daily Meal Production Record as well as in the Food Buying Guide.

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CHILD CARE MEAL PATTERN FOR CHILDREN ONE YEAR OLD OR OLDER (cont.)

LUNCH or SUPPER FOOD COMPONENTS Must Serve All Five Components for a Reimbursable Meal		Age 1 - 2	Age 3 - 5	Age 6 - 12	Age 13-18[1] (at-risk afterschool programs and emergency shelters)
Milk[2,3]	Milk, fluid	4 fl oz	6 fl oz	8 fl oz	8 fl oz
Vegetables[4]	Vegetable(s)	1/8 cup	1/4 cup	1/2 cup	1/2 cup
Fruits[4,5]	Fruit(s)	1/8 cup	1/4 cup	1/4 cup	1/4 cup
Grains (oz eq)[6,7]	Whole grain-rich or enriched bread	1/2 slice[12]	1/2 slice[12]	1 slice[12]	1 slice[12]
	Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	1/2 serving	1/2 serving	1 serving	1 serving
	Whole grain-rich, enriched or fortified cooked breakfast cereal[8], cereal grain, and/or pasta	1/4 cup	1/4 cup	1/2 cup	1/2 cup
Meat/Meat Alternates Edible portion as served	Lean meat, poultry, or fish	1 ounce	1 1/2 ounces	2 ounces	2 ounces
	Tofu, soy products or alternate protein products[9,10,11]	1 ounce	1 1/2 ounces	2 ounces	2 ounces
	Cheese	1 ounce	1 1/2 ounces	2 ounces	2 ounces
	Large egg	1/2	3/4	1	1
	Cooked dry beans or peas	1/4 cup	3/8 cup	1/2 cup	1/2 cup
	Peanut butter or soy nut butter, or other nut or seed butters	2 Tbsp	3 Tbsp	4 Tbsp	4 Tbsp
	Yogurt - plain or flavored unsweetened or sweetened[8]	4 ounces or 1/2 cup	6 ounces or 3/4 cup	8 ounces or 1 cup	8 ounces or 1 cup
	The following may be used to meet *no more than* 50 percent of the requirement:	1/2 ounce = 50%[8]	3/4 ounce = 50%[8]	1 ounce = 50%[8]	1 ounce = 50%[8]
	Peanuts, soy nuts, tree nuts or seeds[13]				
Offer versus Serve	This option only applies to at-risk afterschool program participants. Participant may decline two of five food items.				

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[1] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

[2] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim) milk or flavored fat-free (skim) or low-fat (1%) milk for children six years old and older. *Texas Health and Human Services Commission (HHSC) Child Care Licensing (HHSC CCL) does not allow flavored (sweetened) milk, except for special occasions.*

[3] USDA requires water be made available at all meals and upon request however water does not take the place of milk. *HHSC CCL requires that water is always available to each child and is served at every snack, mealtime, and after active play in a safe and sanitary manner.*

[4] Pasteurized full-strength juice may be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

[5] A vegetable may be used to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.

[6] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

[7] FNS has extended until October 1, 2021 the deadline for implementing ounce equivalents to determine the quantity of creditable grains. The extension allows more time for FNS to develop additional technical assistance materials and for TDA and CEs to provide training and technical assistance to support meal planners. In the interim, CEs are encouraged to transition to using ounce equivalents, rather than household measures such as cups or "servings," to determine the quantity of creditable gains. Assistance for this transition is available via applicable FNS-sponsored training webinars; tools such as the *Recipe Analysis Workbook* and *Exhibit A Grains Tool* sections of the *Food Buying Guide for Child Nutrition Programs*; and TDA's meal pattern training modules and Q&As located on the CACFP Meal Patterns page on SquareMeals.org. **NOTE**: CN Labeled items that currently indicate the number of ounce equivalence of grains in a product contribute to the CACFP as declared on the label as an ounce equivalent serving size (16 grams of grains) is slightly heavier that the current serving size for CACFP (14.75 grams of grains).

[8] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

[9] Alternate protein products must meet the requirements in appendix A of 7 CFR Part 226.

[10] Tofu and soy yogurt products must meet the specifications in Item 4112.3.

[11] Yogurt must contain no more than 23 grams of total sugars per 6 ounces.

[12] Slice is not a measurable unit. A measurable amount of each food item prepared must be entered on the Daily Meal Production Record. Examples of how to document a measurable amount for bread slices can be found on the instructions to the Daily Meal Production Record as well as in the Food Buying Guide.

[13] As listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternates (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry or fish)

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CHILD CARE MEAL PATTERN FOR CHILDREN ONE YEAR OLD OR OLDER (cont.)

SNACKS Must Serve Two of the Five Components for a Reimbursable Meal		Age 1 - 2	Age 3 - 5	Age 6 - 12	Age 13-18[1] (at-risk afterschool programs and emergency shelters)
Milk[2,3]	Milk, fluid	4 fl oz	4 fl oz	8 fl oz	8 fl oz
Vegetables[4]	Vegetable(s)	1/2 cup	1/2 cup	3/4 cup	3/4 cup
Fruits[4]	Fruit(s)	1/2 cup	1/2 cup	3/4 cup	3/4 cup
Grains (oz eq)[5,6]	Whole grain-rich or enriched bread	1/2 slice[12]	1/2 slice[12]	1 slice[12]	1 slice[12]
	Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	1/2 serving	1/2 serving	1 serving	1 serving
	Whole grain-rich, enriched or fortified cooked breakfast cereal[7], cereal grain, and/or pasta	1/4 cup	1/4 cup	1/2 cup	1/2 cup
	Whole grain-rich, enriched or fortified ready-to-eat breakfast cereal (dry, cold)[7,8]				
	• Flakes or rounds	1/2 cup	1/2 cup	1 cup	1 cup
	• Puffed cereal	3/4 cup	3/4 cup	1 1/4 cup	1 1/4 cup
	• Granola	1/8 cup	1/8 cup	1/4 cup	1/4 cup
Meat/Meat Alternates Edible portion as served	Lean meat, poultry, or fish	1/2 ounce	1/2 ounce	1 ounce	1 ounce
	Tofu, soy products or alternate protein products[9,10,11]	1/2 ounce	1/2 ounce	1 ounce	1 ounce
	Cheese	1/2 ounce	1/2 ounce	1 ounce	1 ounce
	Large egg	1/2	1/2	1/2	1/2
	Cooked dry beans or peas	1/8 cup	1/8 cup	1/4 cup	1/4 cup
	Peanut butter or soy nut butter, or other nut or seed butters	1 Tbsp	1 Tbsp	2 Tbsp	2 Tbsp
	Yogurt - plain or flavored unsweetened or sweetened[8]	2 ounces or 1/4 cup	2 ounces or 1/4 cup	4 ounces or 1/2 cup	4 ounces or 1/2 cup
	Peanuts, soy nuts, tree nuts or seeds[13]	1/2 ounce	1/2 ounce	1 ounce	1 ounce

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[1] Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

[2] Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim) milk or flavored fat-free (skim) or low-fat (1%) milk for children six years old and older. *Texas Health and Human Services Commission (HHSC) Child Care Licensing (HHSC CCL) does not allow flavored (sweetened) milk, except for special occasions.*

[3] USDA requires water be made available at all meals and upon request however water does not take the place of milk. *HHSC CCL requires that water is always available to each child and is served at every snack, mealtime, and after active play in a safe and sanitary manner.*

[4] Pasteurized full-strength juice may be used to meet the vegetable or fruit requirement at one meal, including snack, per day. Juice cannot be the second component of a snack if milk is the other component.

[5] At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

[6] FNS has extended until October 1, 2021 the deadline for implementing ounce equivalents to determine the quantity of creditable grains. The extension allows more time for FNS to develop additional technical assistance materials and for TDA and CEs to provide training and technical assistance to support meal planners. In the interim, CEs are encouraged to transition to using ounce equivalents, rather than household measures such as cups or "servings," to determine the quantity of creditable gains. Assistance for this transition is available via applicable FNS-sponsored training webinars; tools such as the *Recipe Analysis Workbook* and *Exhibit A Grains Tool* sections of the *Food Buying Guide for Child Nutrition Programs*; and TDA's meal pattern training modules and Q&As located on the CACFP Meal Patterns page on SquareMeals.org. **NOTE**: CN Labeled items that currently indicate the number of ounce equivalence of grains in a product contribute to the CACFP as declared on the label as an ounce equivalent serving size (16 grams of grains) is slightly heavier that the current serving size for CACFP (14.75 grams of grains).

[7] Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

[8] Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereals is 1/4 cup for children ages 1-2; 1/3 cup for children ages 3-5; 3/4 cup for children ages 6-12 and ages 13-18.

[9] Alternate protein products must meet the requirements in appendix A of 7 CFR Part 226.

[10] Tofu and soy yogurt products must meet the specifications in Item 4112.3.

[11] Yogurt must contain no more than 23 grams of total sugars per 6 ounces.

[12] Slice is not a measurable unit. A measurable amount of each food item prepared must be entered on the Daily Meal Production Record. Examples of how to document a measurable amount for bread slices can be found on the instructions to the Daily Meal Production Record as well as in the Food Buying Guide.

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4112.2 Fluid Milk

Fluid milk must be served as a beverage, or on cereal, or a combination of both. Fluid milk must be pasteurized and must meet State and local standards

Children 1 year old

Children one year of age must be served unflavored whole milk.

Parents that are able and wish to continue feeding their child breastmilk after 12 months of age may request that substitution and provide the breastmilk or a mother may directly breastfeed her child onsite without providing a medical statement (breastmilk is a substitute for cow's milk for children of any age in the meal pattern). If the amount of expressed breastmilk provided does not meet the minimum serving size of fluid milk in the meal pattern the CE or site must serve enough fluid milk alongside the breastmilk to meet the minimum milk requirement.

To facilitate the weaning from formula to cow's milk, for a period of one month, when children are 12 to 13 months of age, meals that contain infant formula may be claimed for reimbursement. While weaning, children should be presented with both types of foods at the same meal service to encourage acceptance of new food. Meals for children 13 months and older that contain infant formula may not be claimed without a statement signed by a licensed physician or a State recognized medical authority.

Children 2 through 5 years old

Children two through five years old must be served either unflavored low-fat (1%) or unflavored fat-free (skim) milk. To make the transition easier CEs and sites have a one month transition period, therefore; meals served to children 24 months to 25 months that contain whole milk or reduced-fat milk (2%) may be claimed for reimbursement.

Children 6 years old and older

Children six years old and older must be served unflavored low-fat (1%), unflavored fat-free (skim) or flavored fat-free (skim) or low-fat (1%) milk (applies to pre-packaged flavored milk or milk flavored using syrup, flavored milk powder or straws).

Reimbursable types of milk for children 2 years old and older include:

- Fat-free or low-fat milk
- Fat-free or low-fat lactose reduced milk
- Fat-free or low-fat lactose free milk
- Fat-free or low-fat butter milk
- Fat-free or low-fat acidified milk

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Whole milk and reduced-fat (2%) milk may not be served to children ages 2 years and older. Meals served to children 1 through 5 years old that contain flavored milk (including milk flavored with chocolate, strawberry, or other syrups) cannot be claimed for reimbursement.

Smoothies

Milk (fat-free or low-fat) in smoothies can be credited as fluid milk with the following exceptions:

- A yogurt smoothie does not serve as a milk substitute in any meal type.
- Milk in commercially prepared prepackaged smoothies **is not** creditable.

NOTES:

- Commercially prepared smoothies must have a CN label or product formulation statement.
- Smoothies containing dietary and herbal supplements, such as whey protein powder and Ginkgo biloba, are not creditable. However, smoothies made with juice that has been fortified with vitamins and minerals, such as calcium and Vitamin D are creditable if all other requirements are met.
- Concentrated fruit puree and concentrated fruit juice are only creditable when reconstituted to full (original) strength.

Refer to Item 4113.3, *Children with Medical or Special Dietary Needs* for guidance related to fluid milk substitution requirements.

If a CE or site experiences temporary unavailability of milk, or conditions exist that cause a continuing unavailability of milk, it should consult its Community Operations Field office for approval to serve meals without milk (temporary unavailability only) or with equivalent amounts of canned, whole dry or fat-free dry milk (continuing unavailability).

4112.3 Vegetables

Vegetables may be fresh, frozen, or canned vegetables, dry beans and peas (legumes), pasta products made of vegetable flour, or vegetable juice.

All vegetables are credited based on their volume as served, except that 1 cup of *raw* leafy greens (e.g., lettuce, raw spinach, etc.) counts as ½ cup of vegetables.

Cooked leafy greens are credited as the volume served, e.g. ½ cup cooked collard greens credits as ½ cup vegetables.

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Pasta products made of vegetable flour credit as follows:

Made of 100 Percent Vegetable Flour(s)

½ cup of pasta made of 100 percent vegetable flour(s) credits as ½ cup of vegetables.

Made of Vegetable Flour(s) and Other Non-Vegetable Ingredients

Pasta products made of vegetable flour and other non-vegetable ingredients may credit as a vegetable with a product formulation statement detailing the actual volume of vegetable flour per serving.

This crediting does not apply to grain-based pasta products that contain small amounts of vegetable powder for color (e.g., spinach, sun-dried tomato).

Pasta Products Made of 100 Percent Legume Flour(s)

½ cup of cooked pasta made of 100 percent legume flour(s) may credit as 2 ounce equivalents of meat alternate. To credit as a meat alternate, pasta made of legume flour(s) must be offered with additional meat/meat alternate, such as tofu, cheese, or meat. At the discretion of the CE or site legumes may credit as a vegetable or a meat alternate, but not as both in the same meal.

CEs and sites may credit legume flour pasta using the Bean Flour yield information on page C-1 of Appendix C of the FBG, or by obtaining a product formulation statement.

It is critical that CE and site staff are trained to recognize a reimbursable meal. Staff should be informed when pasta made with vegetable flour is offered and understand how the pasta contributes toward the reimbursable meal.

Food items that are mixtures of vegetables and fruits, such as a carrot-raisin salad, may credit toward both the vegetable component and the fruit component if they contain at least 1/8 cup vegetable and 1/8 cup fruit per serving that are easily identifiable. Similarly, vegetable mixtures may count toward the vegetable component and the fruit component at lunch and supper if they contain at least 1/8 cup of two different kinds of vegetables.

Pureed vegetables may contribute toward the meal pattern requirement as long as the dish also provides an adequate amount (1/8 cup) of recognizable, creditable vegetables. If the dish does not contain at least 1/8 cup of a recognizable component then the blended foods do not contribute to the meal requirements.

Hominy may credit as a vegetable component as follows: ¼ cup of canned, drained hominy credits as ¼ cup vegetable.

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Pasteurized full-strength vegetable juice may be used to fulfill the entire vegetable requirement at only one meal, including snack, per day. Regardless of the participants at each meal service, juice may only be served at one meal or snack per day. If a CE or site serves a meal in shifts, for example lunch, juice may be served at both shifts as lunch is one meal. However, if the CE or site serves a.m. snack and p.m. snack, juice may be served at only one snack time as a.m. snack and p.m. snack are two distinct snacks.

A juice blend that contains both vegetable and fruit juices may only contribute to one component (either vegetable or fruit) in a meal based on which component is the most prominent ingredient. For example, a vegetable/fruit juice blend that contains 60 percent vegetable juice and 40 percent fruit juice could only be credited toward the vegetable component.

NOTE: juice may be served as an extra food item outside of the meal pattern, for example if juice is served at breakfast, juice may be served as an extra at snack (e.g. crackers, cheese, and juice (extra)). Discretion should be used when serving extra food items as they can add extra calories and extra cost. The reimbursement rate for meals with extra food items (including juice) is the same as regular meals.

Cooked or dry beans or dry peas may be used as either a vegetable or a meat alternate, but not as both in the same meal except when two servings of a different beans or peas are served. For example, if legumes are used as part of a salad, and as part of a chili or bean soup, they can count as a vegetable component in the salad and meat alternate component in the chili or soup.

<u>Smoothies</u>

Vegetables in smoothies can be credited as a juice under the following guidelines:

- Vegetables credit in the following forms: fresh, frozen, or canned, 100% vegetable juice and 100% vegetable and fruit juice blends.
- Pureed vegetables and fruits (fresh, frozen, or canned) credit as juice following the same requirements regarding juice.
- Vegetables from the dry beans and peas subgroup may credit as juice when served in a smoothie.

Smoothies credit as a juice and are subject to the limit of one meal, including snack per day. CEs and sites may not serve a pasteurized full strength juice at one meal and a smoothie at another in the same day.

NOTES:

- Commercially prepared smoothies must have a CN label or product formulation statement.

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- Smoothies containing dietary and herbal supplements, such as whey protein powder and Ginkgo biloba, are not creditable. However, smoothies made with juice that has been fortified with vitamins and minerals, such as calcium and Vitamin D are creditable if all other requirements are met.
- Concentrated vegetable puree and concentrated vegetable juice are only creditable when reconstituted to full (original) strength.

4112.4 Fruits

Fruit may be fresh, frozen, canned, dried fruits, or fruit juice. All fruits are based on their volume as served except that 1/4 cup dried fruit counts as 1/2 cup fruit. **Exception**: dried coconut, coconut flour and coconut oil are not creditable in any meal type.

Fresh or frozen coconut can be used as a fruit based on volume served. At least 1/8 cup of fresh or frozen coconut must be served to credit toward the fruit component.

Food items that are mixtures of vegetables and fruits, such as a carrot-raisin salad, may credit toward both the vegetable component and the fruit component if they contain at least 1/8 cup vegetable and 1/8 cup fruit per serving that are easily identifiable. Similarly, vegetable mixtures may count toward the vegetable component and the fruit component at lunch and supper if they contain at least 1/8 cup of two different kinds of vegetables.

Pureed fruits may contribute toward the meal pattern requirement as long as the dish also provides an adequate amount (1/8 cup) of recognizable, creditable fruit. If the dish does not contain at least 1/8 cup of a recognizable component then the blended foods do not contribute to the meal requirements.

Pasteurized full-strength fruit juice may be used to fulfill the entire fruit requirement at only one meal, including snack, per day. Regardless of the participants at each meal service, juice may only be served at one meal or snack per day. If a CE or site serves a meal in shifts, for example lunch, juice may be served at both shifts as lunch is one meal. However, if the CE or site serves a.m. snack and p.m. snack, juice may be served at only one snack time as a.m. snack and p.m. snack are two distinct snacks.

A juice blend that contains both vegetable and fruit juices may only contribute to one component (either vegetable or fruit) in a meal based on which component is the most prominent ingredient. For example, a vegetable/fruit juice blend that contains 60 percent vegetable juice and 40 percent fruit juice could only be credited toward the vegetable component.

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NOTE: juice may be served as an extra food item outside of the meal pattern, for example if juice is served at breakfast, juice may be served as an extra at snack (e.g. crackers, cheese, and juice (extra)). Discretion should be used when serving extra food items as they can add extra calories and extra cost. The reimbursement rate for meals with extra food items (including juice) is the same as regular meals.

Smoothies

Fruit in smoothies can be credited as a juice under the following guidelines:

- Vegetables and fruits credit in the following forms: fresh, frozen, or canned, 100% vegetable or fruit juice and 100% vegetable and fruit juice blends.
- Pureed vegetables and fruits (fresh, frozen, or canned) credit as juice following the same requirements regarding juice.
- Vegetables from the dry beans and peas subgroup may credit as juice when served in a smoothie.

Smoothies credit as a juice and are subject to the limit of one meal, including snack per day. CEs and sites may not serve a pasteurized full strength juice at one meal and a smoothie at another in the same day.

NOTES:

- Commercially prepared smoothies must have a CN labelor product formulation statement.
- Smoothies containing dietary and herbal supplements, such as whey protein powder and Ginkgo biloba, are not creditable. However, smoothies made with juice that has been fortified with vitamins and minerals, such as calcium and Vitamin D are creditable if all other requirements are met.
- Concentrated fruit puree and concentrated fruit juice are only creditable when reconstituted to full (original) strength.

A vegetable may be used to meet the entire fruit requirement at lunch and supper. The substituted vegetable must be at least the same serving size as the fruit component it replaced. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served. Two different kinds of vegetables does not mean different textures or consistencies, they must be different, for example broccoli and carrots.

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4112.5 Grains

Grain is a required component at breakfast, lunch, and supper meals, and is an optional component at snack. All grain products served in the CACFP must be made with enriched or whole grain meal or flour, or bran or germ in order to be creditable.

At least one serving per day must be whole grain-rich. CEs and sites that only serve one meal per day (breakfast, snack, lunch, or supper) must always serve a whole grain-rich grain with the breakfast, lunch, or supper, and must serve a whole grain-rich grain with the snack if a grain is one of the chosen components.

NOTE: If a site is unable to serve the documented meal with the whole grain-rich grain due to extenuating circumstances, such as being forced to close before serving that meal due to severe weather, meals would not be disallowed on the basis that the whole grain-rich requirement was not met so long as the CE and/or site has documentation on file of the circumstances.

CEs and sites will document which meal each day contains the whole grain-rich grains on the meal production records. See item 4114.1, *Meal Production Record*. **NOTE:** CEs and sites with different groups of children at each meal are encouraged to vary the meal in which a whole grain-rich item is served. This will help ensure that all children are served a variety of whole grains and benefit from the important nutrients they provide.

Enriched Grains and Fortified Breakfast Cereals

Enriched grains are refined grains that have been processed to remove the nutrient-rich bran and germ, and then have thiamin, riboflavin, niacin, folic acid, and iron added after processing. Similarly, a food that is fortified has certain vitamins and minerals added to increase the nutritional quality. Foods made from refined grains that meet at least one of the following are considered creditable:

1. The food is labeled as "enriched." For example, long grain rice that is enriched will have the product name "enriched long grain rice."

2. An enriched grain is listed as the first ingredient on the food's ingredient list or second after water. The ingredient list will usually say "enriched flour" or "enriched wheat flour," or there is a sub-listing of nutrients used to enrich the flour, for example, "yellow corn flour {iron, folic acid, riboflavin, niacin, and thiamine}."

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3. For breakfast cereals, the product is labeled as "fortified" or the ingredient list names the vitamins and minerals that have been added to the product. If a breakfast cereal is fortified, it does not need to be enriched. For example, the ingredient list of a fortified breakfast cereal may read, "Ingredients: Wheat flour, sugar, contains 2% or less of salt, baking soda, caramel color, BHT for freshness. Vitamins and Minerals: Vitamin C (sodium ascorbate, ascorbic acid), niacin, vitamin B6 (pyridoxine hydrochloride), reduced iron, zinc oxide, folic acid, vitamin B2 (riboflavin), vitamin B1 (thiamin hydrochloride), vitamin A palmitate, vitamin D, vitamin B12."

NOTE: The ingredient list of a non-fortified cereal would not name any added vitamins and minerals. For example, the ingredient list of a non-fortified breakfast cereal may read, "Ingredients: rice flour, corn flour, evaporated cane juice, pomegranate juice concentrate, sea salt." This particular cereal would not be considered a creditable grain because it is not made from whole or enriched grains and is not fortified.

Whole Grain-Rich

A whole grain is a grain that has not had its nutrient-rich germ and bran removed, and therefore does not need enrichment. Foods that meet the whole grain-rich criteria are foods that contain at least 50 percent whole grains and the remaining grains in the food are enriched, or are 100 percent whole grain.

Any one of the following six options may be used to determine if a grain product meets the whole grain-rich criteria. Use of these methods is intended to be flexible so that individual CEs and sites who may use different methods to purchase food (such as wholesale or retail), can easily identify creditable whole grain-rich foods. CEs and sites must only ensure that a food meets at least one of the following to be considered whole grain-rich:

1. The product is found on any State agency's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)-approved whole grain food list.

   Any grain product found on a State agency's WIC-approved whole grain food list meets CACFP whole grain-rich criteria. CEs and sites can obtain a copy of the Texas Health and Human Services (HHSC) WIC Approved Foods List by contacting HHSC at (512) 776-7111 or (888) 963-7111, or online at:

   https://www.dshs.texas.gov/wichd/approved_foods/new_foods.shtm

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CEs and sites may also obtain other State agency's WIC-approved whole grain food list by contacting the WIC State agency. For a list of WIC State agency contacts, go to www.fns.usda.gov/wic/wic-contacts.

2. The product is labeled as "whole wheat" and has a Standard of Identity issued by the U.S. Food and Drug Administration (FDA).

   An FDA Standard of Identity is a set of rules for what a certain product (like whole wheat bread) must contain or may contain to legally be labeled with that product name. FDA provides Standards of Identity for certain whole wheat bread products (21 CFR §136.180) and certain whole wheat pasta products (21 CFR §139.138).

   Only breads with these exact product names conform to an FDA Standard of Identity and can be considered whole grain-rich using this method:

Whole Wheat	**Entire Wheat**	**Graham**
Bread	Bread	Bread
Rolls	Rolls	Rolls
Buns	Buns	Buns

   Only pastas with these exact product names conform to an FDA Standard of Identity and can be considered whole grain-rich using this method:

Whole Wheat			
Macaroni product	Macaroni	Spaghetti	Vermicelli

   Other grain products labeled as "whole wheat" that do not have an FDA Standard of Identity, such as crackers, tortillas, bagels, and biscuits, must be evaluated for whole grain-rich creditability for CACFP using one of the other methods.

   IMPORTANT: Manufacturers may label their products with terms that are similar to, but slightly different from, FDA Standard of Identity terms defined above. Some frequently encountered terms include "whole grain," "made with whole grains," "made with whole wheat," or "contains whole grains." These terms do not indicate an FDA Standard of Identity for whole wheat products. Foods labeled with these terms must be evaluated for whole grain-rich creditability for CACFP using one of the other methods.

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3. The product includes one of the following FDA approved whole-grain health claims on its packaging, exactly as written:

   "Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol may reduce the risk of heart disease and some cancers."

   OR

   "Diets rich in whole grain foods and other plant foods, and low in saturated fat and cholesterol, may help reduce the risk of heart disease."

   FNS is allowing the FDA whole grain health claims to be sufficient documentation to demonstrate compliance with the whole grain-rich criteria in the CACFP.

4. The food meets the whole grain-rich criteria under the NSLP.

   Use of the NSLP whole grain-rich criteria may ease menu planning and purchasing for school CEs that operate CACFP at-risk afterschool programs or CACFP child care programs, as they can use the same whole grain-rich criteria for both programs. The NSLP whole grain-rich criteria apply for all grain products with the exception of grain-based desserts, which are not creditable under CACFP.

5. The food meets FNS' Rule of Three, a three-step process for identifying whole grain-rich products in the CACFP.

   FNS developed the Rule of Three in recognition that CEs and sites may not have access to manufacturers' product formulation statements.

   To meet the Rule of Three as a whole grain-rich product, the first ingredient (or second after water) must be whole grain, and the next two grain ingredients (if any) must be whole grains, enriched grains, bran, or germ. Any grain derivatives (by-products of grains) may be disregarded. Any non-creditable grain ingredients (e.g., flours that are not enriched or whole) that are labeled as 2 percent or less of product weight are considered insignificant and may also be disregarded (see below for a list of these ingredients).

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When applying the Rule of Three to the grain portion of mixed dishes, such as pizza crusts and tortillas for burritos, the first grain ingredient must be whole grain and the next two grain ingredients (if any) must be whole grains, enriched grains, bran, or germ.

When applying the Rule of Three for ready-to-eat breakfast cereals, if the first grain ingredient is a whole grain and the cereal is fortified, the product meets the whole grain-rich criteria. In this situation, the second and third grain ingredients, if any, do not need to be considered.

CEs and sites may wish to refer to the below list of ingredients while reviewing grain product labels when using the Rule of Three. **NOTE:** This list is not meant to be exhaustive, and there may be other items that qualify that are not listed below.

Whole Grains (must be the first grain ingredient; may be the second or third grain ingredient)				
Wheat berries	Wheat groats	Oat groats	Whole grain corn	Brown rice
Wild rice	Buckwheat groats	Rye groats	Whole einkorn berries	Spelt berries
Millet	Triticale	Quinoa	Teff	Cracked wheat
Buckwheat	Amaranth	Sorghum	Bulgur	Whole wheat flour
Whole durum flour	Graham flour	Whole grain corn flour	Whole rye flour	Whole grain oat flour
Whole grain einkorn flour	Whole grain spelt flour	Buckwheat flour	Millet flour	Teff flour
Triticale flour	Amaranth flour	Sorghum flour	Whole grain wheat flakes	Old fashioned oats
Steel cut oats	Quick cooking oats	Instant oatmeal	Sprouted whole wheat	Sprouted brown rice
Sprouted whole rye	Sprouted buckwheat	Sprouted einkorn	Sprouted spelt	Whole corn
Corn flour	Corn masa	Cornmeal	Hominy*	Popcorn

*1/2 cup cooked or 1 ounce (28 grams) dry hominy grits credits as 1 oz equivalent grains

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Brans and Germs (may be the second or third grain ingredient)					
Wheat bran	Oat bran	Corn bran	Rice bran	Rye bran	Wheat germ

Enriched Grains (may be the second or third grain ingredient)			
Enriched wheat flour	Enriched white flour	Enriched durum flour	Enriched rye flour
Enriched rice or Enriched rice flour	Enriched corn flour	Enriched bromated flour	Enriched durum wheat flour

Disregarded ingredients (may be ignored, as these ingredients are not included in the Rule of Three)	
Any ingredients that are less than 2 percent of product weight (any ingredients listed on the ingredient list after the words "contains 2% or less").	Any grain derivatives which are generally presented in only small amounts, such as: - wheat gluten - wheat dextrin - corn dextrin - tapioca starch - wheat starch - corn starch - rice starch - modified food starch

Non-creditable Grains or Flours (The following ingredients are not whole or enriched and cannot be one of the first 3 grain ingredients)					
Bromated flour	Durum flour	Malted barley flour		Semolina	Potato flour
Wheat flour	Oat fiber	Barley malt		Farina	Any bean flour
White flour	Corn fiber	Corn	Degerminated corn meal	Rice flour	Any nut flour

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Examples of *Rule of Three*:

Example 1: An English muffin's ingredient list reads: "whole wheat flour, water, enriched wheat flour, wheat starch, yeast, sugar, and salt." This product is creditable as a whole grain-rich product in the CACFP using the Rule of Three because the first ingredient (whole wheat flour) is a whole grain, and the second grain ingredient (enriched wheat flour) is an enriched grain. The wheat starch is a grain derivative and therefore does not count as a grain ingredient in CACFP. Therefore, this product meets the Rule of Three based on the only two grain ingredients.

Example 2: A corn chip's ingredient list reads: "whole corn, vegetable oil, salt, cheddar cheese, maltodextrin, wheat flour, Romano cheese, whey protein concentrate." This product is not creditable as a whole grain-rich product for CACFP using the Rule of Three, because although the first ingredient is a whole grain (whole corn), the next grain ingredient is unenriched wheat flour. However, this item is creditable as a grain that is not being served as a whole grain-rich item because the first grain is a whole grain.

Example 3: A cheese pizza's ingredient list reads: "mozzarella cheese, parmesan cheese, white whole wheat flour, brown rice flour, enriched flour, non-fat milk, water, tomato paste, yeast." This product meets the whole grain-rich criteria using the Rule of Three because the first and second grain ingredients are whole grains and the third grain ingredient is enriched.

6. Proper documentation from a manufacturer or a standardized recipe demonstrates that whole grains are the primary grain ingredient by weight.

   Documentation from a manufacturer or a standardized recipe is particularly helpful when determining whole grain-rich creditability for grain products that do not have a whole grain as the first ingredient and for mixed products. When a grain product (such as bread) has a first ingredient that is not whole grain, the primary ingredient by weight may still be whole grain if there are multiple whole-grain ingredients and the combined weight of those whole grains is more than the weight of the other grain ingredients. When the grain portion of a mixed product (like a beef enchilada) is not entirely whole grain, it may be whole grain-rich depending upon the proportion of whole grains to other grain ingredients.

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Examples of Proper Documentation:

Example 1: Documentation from a manufacturer of a purchased bagel states the product contains enriched wheat flour (40 percent of grain weight), whole-wheat flour (30 percent of grain weight), and whole oats (30 percent of grain weight). The combined weight of the two whole-grain ingredients (whole wheat and whole oats at 60 percent) is greater than the enriched wheat flour (at 40 percent), even though the enriched wheat flour is listed first on the ingredient list.

Example 2: A standardized recipe for homemade bread calls for 2 cups of whole-wheat flour and 2 cups of enriched flour. This recipe meets the whole grain-rich requirement, because it contains 50 percent whole grains and the remaining grains in the food are enriched.

Example 3: The retail package for a frozen breaded chicken patty is labeled "contains whole grains" and lists grain ingredients as "enriched wheat flour, whole wheat flour, and whole grain corn flour." The CE or site understands that "contains whole grains" does not indicate an FDA Standard of Identity and the product does not meet the Rule of Three for determining whole grain-rich creditability because the first grain ingredient is not a whole grain. The CE or site contacts the manufacturer and receives documentation that the grain portion of the product contains 50 percent enriched wheat flour, 25 percent whole wheat flour, and 25 percent whole grain corn flour. This product is therefore creditable as whole grain-rich using manufacturer documentation showing that the grain portion contains 50 percent whole grain and the remaining grains are enriched.

IMPORTANT: While the Whole Grain Stamps provide useful information on the amount of whole grains a product contains, they are not sufficient documentation to determine if a food is whole grain-rich. This is because products that display a Whole Grain Stamp may also contain high amounts of non-creditable grains, such as non-enriched, refined flour.

Grain-based Desserts

Grain-based desserts have been identified as sources of added sugars and saturated fats and therefore cannot count towards the grain requirement in any meal or snack.

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The following foods, included in Exhibit A: *Grain Requirements for Child Nutrition Programs* in the Food Buying Guide (FBG) are considered grain-based desserts:

Cookies	Sweet pie crusts	Doughnuts
Breakfast bars	Sweet rolls	Toaster pastries
Sweet scones	Sweet Bread puddings	Sweet Rice puddings
Granola bars	Brownies (including black bean brownies*)	Homemade granola bars
Cereal bars	Cake	Coffee Cake

*The black beans in a black bean brownie also do not credit toward the meat/meat alternate or vegetable component.

NOTE: Foods not listed in the FBG may be considered grain-based desserts and would not count toward a reimbursable meal.

It is important to note that cookies do not have a standard of identity, so a food manufacturer may come up with fanciful names that could mislead the menu planner into serving a product that may not be allowed. When determining whether a food is a grain-based dessert, the menu planner should consider whether the food is commonly thought of as a dessert or treat.

Quick breads, such as banana breads and zucchini bread are still allowable as a grain. Crusts on meat/meat alternate (savory) pies, such as a chicken pot pie, may credit towards the grain component if it contains at least ¼ serving grain per portion. **NOTE:** Quick breads credit the same as muffins. Reference group D in Exhibit A of the FBG.

Savory scones, such as one made with cheese and herbs, credit like a biscuit and are not considered a grain-based dessert.

The fruit in a grain-based dessert, such as pies, cobblers, or crisps, can credit toward the fruit component. CEs and sites are encouraged to use sweetened fruit *in moderation* to help reduce the consumption of added sugars.

It is understood that CEs and sites may want to occasionally serve grain-based desserts, such as for celebrations or other special occasions, and continue to have the flexibility to serve grain-based desserts as an additional food item that does not contribute to the meal components required for reimbursement. However, non-creditable food items are not allowable costs and must be purchased using non-Program funds.

Breakfast Cereals

Breakfast cereals, as purchased, (including ready-to-eat cereals, instant and hot cereals (such as oatmeal)) must contain no more than 6 grams of sugar per dry ounce (21.2 grams of sugar per 100 grams of dry cereal), and be whole grain-rich, enriched, or fortified to be creditable.

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There are several ways to determine if a breakfast cereal is within the sugar limit. A breakfast cereal must meet only one (not all) of the following methods to determine if a breakfast cereal meets the sugar limit:

1. Use any State agency's WIC approved breakfast cereal list. Similar to CACFP, all WIC-approved breakfast cereals must contain no more than 6 grams of sugar per dry ounce (21.2 grams of sugar per 100 grams).

2. Use USDA's Team Nutrition training worksheet *Choose Breakfast Cereals That Are Lower in Added Sugars* (https://www.fns.usda.gov/tn/cacfp-meal-pattern-training-worksheets), which includes a chart with common breakfast cereal serving sizes and the maximum amount of sugar the breakfast cereal may contain per serving, which should eliminate the need to perform sugar limit calculations for many CEs and sites.
3. Use one of the following methods to calculate the sugar content per dry ounce.

Standard Method

- First, find the serving size in grams at the top of the Nutrition Facts label, and find the sugars listed towards the middle.

- Next, divide the total sugars by the serving size in grams.

- If the answer is equal to or less than 0.212, then the cereal is within the required sugar limit and may be creditable in CACFP.

  Example

  Cereal A's Nutrition Facts label shows that the serving size is 55 grams and the amount of sugar per serving is 13 grams. Thirteen grams (sugar) divided by 55 grams (serving size) equals 0.236. Cereal A exceeds the sugar limit because 0.236 is greater than 0.212.

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Rounding Method

This is the calculation method used in the Team Nutrition training worksheet *Choose Breakfast Cereals That Are Lower in Added Sugars* (https://www.fns.usda.gov/tn/cacfp-meal-pattern-training-worksheets) noted above. The worksheet uses the standard rules for rounding, which are to round up to the next whole number if the number after the decimal point is 0.5 or greater and to round down if the number is less than 0.5.

- First, find the serving size in grams at the top of the Nutrition Facts label.
- Multiply the serving size in grams by 0.212.
- If the answer in step 2 ends in 0.5 or more, round the number up to the next whole number. If the answer in step 2 ends in 0.49 or less, round the number down to the next whole number. For example, if the answer in step 2 is 4.24, it is rounded down to 4.
- Next, find the Sugars listed towards the middle of the Nutrition Facts label.
- Compare the number from Step 4 with the number in Step 3. If the number from Step 4 is equal to, or less than, the number in Step 3, the cereal meets the sugar limit and may be creditable in the CACFP.

  Example

  Cereal B's Nutrition Facts label shows that the serving size is 30 grams. 30 grams times 0.212 equals 6.36. This number ends in 0.36, which is less than 0.5, so 6.36 is rounded down to 6 grams. Six grams is the sugar limit for a serving size of 30 grams. The amount of sugar per serving in Cereal B is 5 grams. Five grams is less than the sugar limit of 6 grams calculated for this serving size, so this cereal is under the sugar limit and is creditable in the CACFP.

Both of these methods of calculations are valid ways of demonstrating a breakfast cereal meets the sugar limit, but there may be times when a breakfast cereal is within the sugar limit when using one of these methods, but not the other. As long as a breakfast cereal meets the sugar limit using at least one of the methods described above, it is considered within the sugar limit.

CEs and sites cannot mix a high sugar cereal with a low sugar cereal to meet the sugar limit. Adding toppings to a breakfast cereal is allowed, but CEs and sites are encouraged to offer healthy toppings such as fruit instead of sugar.

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CEs and sites that make homemade cereal, such as granola, must calculate the sugar content of the granola based on the recipe used. The Standardized recipe must be on file for review.

Popcorn

Popcorn is a whole grain food and a good source of fiber. Popcorn may now credit as a whole grain in meals and snacks as follows:

- ¾ cup (or 0.25 ounces (7 grams)) popped popcorn credits as ¼ ounce equivalent of whole grains;
- 1 ½ cups (or 0.5 ounces (14 grams)) popped popcorn credits as ½ ounce equivalent of whole grains; and
- 3 cups (or 1.0 ounce (28 grams)) popped popcorn credits as 1 ounce equivalent of whole grains

The high volume of popcorn required for crediting may be too much for some children, especially young children. CEs and sites are encouraged to pair popcorn with another creditable grain in these situations, using the crediting guidance for ½ and ¼ ounce equivalents and servings outlined above. For example, CEs and sites could serve popcorn in a trail mix with pretzels and cereal for a snack.

Popcorn also may be used as an ingredient in creditable foods prepared commercially or by the CE or site. Popcorn must be present in the minimum creditable quantities to credit (that is ¾ cup or ¼ ounce equivalent). To credit commercially-prepared foods, CEs or sites must obtain a product formulation statement. CEs and sites using popcorn as an ingredient in other food prepared in-house by the CE or site will follow the standards already in place for determining meal contributions for in-house recipes, including creating standardized recipes in the FBG. Additionally, to determine how to credit popcorn that is ground into flour, and made into crackers for example, CEs and sites will follow Exhibit A, found in the appendix of the *Food Buying Guide*.

CEs and sites are encouraged to limit the use of toppings such as salt, caramel, cheese, and butter that add sodium, sugar, or saturated fat. Although these toppings are not prohibited, healthier alternatives are encouraged, including seasoning the popcorn with herb blends or serving fresh, plain popcorn. CEs and sites are to use their discretion in determining if a certain popcorn product or recipe is perceived to be a grain-based dessert and to follow the guidance in place for grain-based desserts accordingly.

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4112.6 Meat/Meat Alternates

Meat/meat alternates must be served in a main dish, or in a main dish and one other menu item.

The creditable quantity of meat/meat alternates must be the edible portion as served of:

- Lean meat, poultry, or fish;
- Alternate protein products;
- Cheese, or an egg;
- Cooked dry beans or peas;
- Pasta made of 100 % legume flour(s);
- Peanut butter; or
- Any combination of these foods.

Nuts and seeds and their butters are allowed as meat alternates. Nuts and seeds may only be used to meet one-half of the meat/meat alternates component for lunch and supper and must be combined with other meat/meat alternates to meet the full requirement for a reimbursable lunch or supper. **EXCEPTION**: Acorns, chestnuts, and coconuts cannot be used as meat alternates because of their low protein and iron content.

Nut and seed meals or flours may be used only if they meet the requirements for alternate protein products as specified in Item 4112.6.2, *Alternate Protein Products*.
Cooked and dry beans and peas (legumes) may be used to meet all or part of the meat/meat alternates component. Beans and peas include:

Black beans	Garbanozo beans	Lentils	Kidney beans
Mature lima beans	Navy beans	Pinto beans	Split peas

Cooked or dry beans or dry peas may be used as either a vegetable or a meat alternate, but not as both in the same meal except when two servings of a different beans or peas are served. For example, if legumes are used as part of a salad, and as part of a chili or bean soup, they can count as a vegetable component in the salad and meat alternate component in the chili or soup.

Four ounces (weight) or 1/2 cup (volume) of yogurt equals one ounce of the meat/meat alternates component. Yogurt may be plain or flavored unsweetened or sweetened, and must contain no more than 23 grams of total sugars per 6 ounces. CEs and sites may not mix a non-creditable yogurt (one with a sugar content that exceeds the allowable sugar limit) with a creditable yogurt (one with a sugar content that meets the allowable sugar limit) to create a yogurt that meets the sugar limit.

Other meat alternates, such as cheese and eggs, may be used to meet all or part of the meat/meat alternates component.

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Shelf-stable, dried and semi-dried meat, poultry, and seafood snacks (such as beef jerky or summer sausage may be used toward the meat component in a reimbursable meal or snack. To credit the product CEs and sites will follow the crediting principles used for all other products made from meat, poultry, or seafood. Product Formulation Statements or CN Labels are the two acceptable formats for documenting meal contributions from dried meat, poultry, and seafood products.

When a product formulation statement is provided for a dried meat product, it should be evaluated to ensure the following crediting principles are followed:

- The creditable meat ingredient listed on the product formulation statement must match or have a similar description as the ingredient listed on the product label (e.g., Ground Beef, Not More Than 30% Fat or Beef Round Roast);
- The creditable meat ingredient listed on the product formulation statement must have a similar description to a food item in the *Food Buying Guide for CNPs*; and
- The creditable amount cannot exceed the finished weight of the product.

Surimi seafood, which is available in many forms and shapes including chunks, shredded, and flaked may also credit as a meat/meat alternate as follows:

Surimi Seafood (ounces)	**Meat/Meat Alternate** (ounce equivalents)
4.4	1.5
3.0	1.0
1.0	0.25

Surimi seafood may contain as little as one-third seafood ingredient, and can include other creditable food ingredients. The crediting ratio for surimi seafood differs based on portion size due to rounding rules that require crediting down to the nearest 0.25 ounces.

To credit surimi seafood differently than what is listed in the chart above, CEs and sites must obtain a CN label or product formulation statement from the manufacturer. These products may credit based on the creditable ingredient quantities identified in the CN Label or product formulation statement.

Tempeh, a highly nutritious soybean cake, may be served as a meat alternate. This will allow CEs and sites to diversify menus to meet the dietary needs of children with vegetarian preferences or dietary restrictions for cultural or religious reasons. One (1) ounce of tempeh credits as one (1) ounce equivalent of meat alternate. This method of crediting applies to tempeh with ingredients limited to soybeans (or other legumes), water, tempeh culture, and for some varieties, vinegar, seasonings, and herbs.

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Varieties of tempeh that include other creditable foods as ingredients, such as brown rice, sunflower seeds, sesame seeds, flax seed, and/or vegetables, may also credit as meat alternates, grains, and/or vegetables. Since foods must be present in the minimum creditable quantities (⅛ cup or ¼ ounce equivalents) to credit in the Program, documentation must show how much tempeh and other creditable foods these products contain. To credit these varieties of tempeh, CEs and sites must obtain a CN Label or a product formulation statement from the manufacturer. These varieties may credit based on the ingredient quantities identified in the CN Label or product formulation statement.

Pasta Products Made of 100 Percent Legume Flour(s)

½ cup of cooked pasta made of 100 percent legume flour(s) may credit as 2 ounce equivalents of meat alternate. To credit as a meat alternate, pasta made of legume flour(s) must be offered with additional meat/meat alternate, such as tofu, cheese, or meat. At the discretion of the CE or site legumes may credit as a vegetable or a meat alternate, but not as both in the same meal.

CEs and sites may credit legume flour pasta using the Bean Flour yield information on page C-1 of Appendix C of the FBG, or by obtaining a product formulation statement.

Seitan and soy cheeses are not creditable as meat alternates.

Smoothies

Yogurt in a smoothie can be credited as a meat/meat alternate. Yogurt is the only creditable meat/meat alternate allowed in a smoothie.

NOTES:

- Commercially prepared smoothies must have a CN label or product formulation statement.
- Smoothies containing dietary and herbal supplements, such as whey protein powder and Ginkgo biloba, are not creditable. However, smoothies made with juice that has been fortified with vitamins and minerals, such as calcium and Vitamin D are creditable if all other requirements are met.
- Concentrated fruit puree and concentrated fruit juice are only creditable when reconstituted to full (original) strength.

The following items cannot be used to satisfy the meat/meat alternates component:

- Frozen yogurt.
- Yogurt bars.
- Yogurt covered fruits or nuts.

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- Yogurt flavored products.
- Homemade yogurt.

4112.6.1 Tofu and Soy Yogurt Products

Tofu means a commercially prepared soy-bean derived food, made by a process in which soybeans are soaked, ground, mixed with water, heated, filtered, coagulated, and formed into cakes. Basic ingredients in tofu are whole soybeans, one or more food-grade coagulants, and water.

2.2 ounces (1/4 cup) of commercially prepared tofu, containing at least 5 grams of protein is creditable as 1 ounce equivalent of meat alternate. When purchasing tofu use the following yield information: 1 pound of tofu with 37 grams of protein will have 7.28 quarter-cup servings per pound and provide 7.25 ounces of equivalent meat alternate.

Noncommercial tofu products and soft or silken tofu incorporated into drinks such smoothies or other dishes to add texture or improve nutrition such as in baked desserts, does **NOT** credit toward the meat alternate component.

Firm or extra firm tofu in stir-fries, omelets, and miso soup may credit towards the meat alternate component. Firm or soft tofu cut into cubes and incorporated into a dish, such as a salad, is creditable as the tofu is easily recognizable as a meat alternate. Meat substitute products such as links and sausages made from tofu are also easily recognizable as meat substitutes and can be included in a meal.

Tofu that mimics another food group (such as tofu noodles which mimic a grain noodle) are not creditable because the tofu is not easily recognizable as a meat alternate.

½ cup (4.0 fluid ounces) of soy yogurt is creditable as 1.0 ounce equivalent of meat alternate. Soy yogurt allows CEs and sites to provide a non-dairy alternative. Soy yogurt must not contain more than 23 grams of sugar per 6 ounces to be creditable.

Noncommercial soy yogurt products do **NOT** credit toward the meat alternate component.

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4112.6.2 Alternate Protein Products

Alternate Protein Products (APP) -- formerly referred to as "Vegetable Protein Products" -- can be credited as a meat/meat alternates on an "ounce-for-ounce" basis.

APP, whether used alone or in combination with meat or meat alternate, must meet the following criteria:

- The APP must be processed so that some portion of the non-protein constituents of the food is removed. APPs must be safe and suitable edible products produced from plant or animal sources.
- The biological quality of the protein in the APP must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).
- The APP must contain at least 18 percent protein by weight when fully hydrated or formulated. (When hydrated or formulated refers to a dry APP and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

A CE or site may use commercially prepared meat/meat alternate products combined with APP or a product that contains only APP. Examples of combination items include beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad. The APP may be used in a non-hydrated, partially hydrated, or fully hydrated form. The moisture content of a fully hydrated APP, if prepared from a dry concentrated form, must be such that the mixture has a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

The CE and site must maintain documentation from the manufacturer that an APP meets protein quality standards mandated by the Child Nutrition Programs, as indicated above.

Documentation must provide information on the percent of protein contained in the dry alternate protein product and on an as prepared basis and, for an alternate protein mix, must include information on (a) the amount by weight of dry alternate protein product in the package; (b) hydration instructions; and (c) instructions on how to combine the mix with meat or other meat alternates.

CEs and sites must accurately describe the menu items that are served. This will assist the CE's or site's staff when selecting menu items that are consistent with dietary needs.

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It is important to remember that the terms meat and protein are not synonymous and that meal pattern requirements specify the meat/meat alternate component in terms of lean cooked meat, not protein. Refer to Section 11000, *Resources*, for the Meat Versus Protein Fact Sheet.

4112.7 Water Availability in the CACFP

Potable (suitable for drinking) water must be made available to children one year and older throughout the day, including mealtimes, to drink upon the child's request. In addition, CEs and sites must ensure caregivers offer water throughout the day, being especially mindful of those children who may not be able to or know how to request it themselves. Water does not have to be made available for self-serve. Although water must be made available during mealtimes it does not have to be served alongside the meal. Water is not part of a reimbursable meal and cannot be served in lieu of fluid milk.

CEs and sites may choose to flavor water with vegetables, fruit, or herbs as long as plain, potable water is also available. Commercially prepared (including bottled) flavored water is not allowed. Fruit or vegetable added to water cannot count toward the vegetable or fruit component of a reimbursable meal, including snacks. CEs and sites that flavor water with cut-up fruit, vegetables, or herbs must ensure they follow all State and local health and sanitation codes.

Purchasing water (for example, bottled water) is usually an unallowable cost, however there may be circumstances in which safe drinking water is not readily available. In these instances, purchasing plain potable water may be considered a reasonable, necessary, and allowable cost.

If circumstances arise which require the purchase of plain potable water, CEs must contact their Community Operations Field office for approval. Under no circumstances will the purchase of water for adult or employee consumption be an allowable cost. The cost of testing water quality to ensure it is safe for consumption may be allowable. Refer to Section 7000, *Financial Management* for additional information.

CEs and sites must ensure that potable water is available upon demand for children throughout the day, including mealtimes. This can be accomplished by:

- Having cups available next to the kitchen sink faucet;
- Placing water pitchers and cups out in easy to reach areas for children to access as needed;
- Providing water to a child when requested.

CEs and sites are encouraged to provide water during snack meal services when no other beverage is being served, and in place of high calorie sweetened drinks (juice drinks, soda, and sports drinks) served outside of meal times.

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4113 Meal Variations

4113.1 Religion

TDA may approve variations in meal patterns to meet religious needs. If a CE or site wants to serve meals that vary from USDA Meal Patterns, they must submit an alternate meal pattern with justification to TDA. Sponsored sites must first submit their alternate meal plan to their sponsor; the sponsor must submit their site's plan to their Community Operations office for final approval. All plans must be approved by TDA prior to the CE or site claiming reimbursement.

Jewish CEs/sites may be exempted from the enrichment portion of the bread requirement if they choose to substitute unenriched matzo for the required grains/breads component during the observance of Passover. At all other times of the year, matzo served as the grain component must be whole grain rich, whole grain, or enriched in accordance with CACFP meal pattern requirements.

Jewish CEs/sites may also be exempted from the meal pattern requirement that milk be served with all lunches and suppers. This exemption applies only to meals containing meat or poultry since Jewish Dietary Law allows milk to be served with meat alternates such as fish, cheese, eggs, nut and seed butter, and nuts and seeds. Jewish CEs/sites that request an exemption must choose from the following three options:

- **Option I –** The CE or site may serve an equal amount of full-strength juice in place of milk with lunch or supper. Juice substituted for milk cannot contribute to the vegetable/fruit requirement.

  If the CE or site operates five days a week, it may substitute juice for milk twice per week for lunches and twice per week for suppers, but is only allowed one substitution per day.

  If the CE or site operates seven days a week, it may substitute juice for milk three times per week for lunches and three times per week for suppers, but is only allowed one substitution per day.

  Milk substitutions are limited, since milk is a primary source of calcium and riboflavin. When using Option I, CEs and sites should serve other sources of calcium, e.g., broccoli and greens, and riboflavin, e.g., dark green and yellow fruits and vegetables and whole-grain or enriched breads and cereals.

- **Option II –** The CE or site may serve milk at an appropriate time before or after the meal service period, in accordance with applicable Jewish Dietary Law.

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- **Option III –** The CE or site may serve a snack juice component at lunch or supper. Serve the lunch or supper milk component as part of a snack.

NOTE: An exemption is not necessary for breakfasts.

4113.2 Children with Disabilities

CEs and sites are **required** to provide meal component substitutions to a disabled child when supported by a medical statement signed by a licensed physician or a State recognized medical authority. A State recognized medical authority is a State licensed health care professional who is authorized to write medical prescriptions under State law.

As part of its informational packet or orientation documentation, the CE or site should provide parents/guardians instructions on requesting substitutions.

The medical statement should include a description of the child's physical or mental impairment that is sufficient to allow the CE or site to understand how it restricts the child's diet. It should also include an explanation of what must be done to accommodate the disability. In the case of food allergies, this means identifying the food or foods that need to be omitted and recommending alternatives. In other cases, more information may be required. For example, if an infant requires the substitution of a Food and Drug Administration exempt infant formula in place of iron-fortified infant formula to accommodate a disability, this information must be included in the statement. CEs and sites may request more information if the medical statement does not contain all necessary information to allow the CE or sites to understand what modification(s) to make, however; CEs and sites may not request additional information with the intent of trying to figure out of the child/infant really has a disability. CEs and sites must put into place what is known while waiting on additional information or clarification.

When CEs or sites believe the medical statement is unclear, or lacks sufficient detail, they must obtain appropriate clarification so that a proper and safe meal can be provided. CEs and sites may consider using the services of a Registered Dietitian, when available, to assist in implementing meal modifications, as appropriate.

CEs and sites are not required to provide the exact substitution or other modification requested. However, they must work with the parent or guardian to offer a reasonable modification that effectively accommodates the child's disability and provides equal opportunity to participate in or benefit from the Program. When determining what an appropriate modification is, the age, maturity, mental capacity, and physical ability of the child should be considered. For instance, younger children may need greater assistance with selecting and eating their meals, whereas older children may be able to take a greater level of responsibility for some of their dietary decisions.

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CEs and sites may also consider expense and efficiency when choosing the most appropriate approach to accommodate a child's disability. For example, the parent of a child with an allergy to a specific ingredient found in a menu item may request that the CE or site provide a particular brand name version as a substitute. Generally, the CE or site is not required to provide the brand name item identified, but it must offer a substitute which does not contain the specific allergen that affects the child. "No" cannot be the first response to a parent/guardian requesting a specific brand or item.

CEs and sites are not required to make modifications that would result in a fundamental alteration in the nature of the Program. In these situations, some meal modifications may be so expensive that providing the modification would fundamentally alter the nature of the Program.

Modifications that are so expensive that they would make continued operation of the Program unfeasible constitute a fundamental alteration in the nature of the Program and are, therefore, not required. CEs and sites should be aware that the expense of a modification is measured against the total resources available to that particular CE or site. For example, providing an expensive medical infant formula to accommodate an infant's disability may be so financially burdensome for a CE or site that it would make operating the Program unfeasible, and consequently would fundamentally alter the nature of the Program. In this example, the CE or site would not be required to provide the requested medical infant formula.

CEs and sites faced with a very expensive request should first consider engaging in further dialogue with the child's parents or guardian. As discussed above, CEs and sites are not required to provide the exact substitution or other modifications requested. However, they must work with the parent or guardian to offer a reasonable modification that effectively accommodates the child's disability and provides equal opportunity to participate in or benefit from the Program.

CEs concerned that a requested modification would fundamentally alter the nature of the Program should contact their ESC or Community Operations Field office for assistance.
CEs and sites must:

- Keep on file a copy of the licensed physician's or State recognized medical authority's medical statement in both the CE's and the site's files, if the CE and site are in different locations;
- Provide the meal substitutions at no additional cost to the child's parent (or guardian); and
- Document meal substitutions.

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CEs and sites must provide all meal services in the most integrated setting appropriate to the needs of the disabled child. Exclusion of any child from the Program environment is not considered an appropriate or reasonable modification. For example, a child may not be excluded from the area where meals are served and required to sit in another room during the meal service. This is not an appropriate or reasonable modification. Similarly, while it may be appropriate to require children with very severe food allergies to sit at a separate table to control exposure, it is not appropriate to simultaneously use that table to segregate children as punishment for misconduct.

A parent or guardian may provide one or more of the components of the reimbursable meal as long as the CE or site provides at least one required component. CEs and sites may not require a parent/guardian to provide one or more component for a child/infant with a disability.

The reimbursement rate for meals served to children/infants with disabilities is the same standard rate as all other Program meals, however; the added cost of providing meal substitutions is an allowable Program cost in your food budget.

4113.3 Children with Medical or Special Dietary Needs

CEs and sites may, at their discretion, make substitutions for children who are not disabled but who are unable to consume a food item because of medical or other special dietary needs, such as children with food intolerance(s) (e.g., lactose intolerant or food allergy).

Substitutions must be made on a case-by-case basis, must be provided at no additional cost to the parent/guardian, and must be supported by a written statement signed by a recognized medical authority

The written statement must include the following:

- Identification of the medical or special dietary need that restricts the child's diet;
- Food or foods to be omitted from the child's diet; and
- Food or choice of foods to be used as substitutions.

In these cases, recognized medical authority may include physicians, physician assistants, or nurse practitioners. **EXCEPTION**: written requests for non-dairy fluid milk substitutions do not have to be signed by a recognized medical authority. See Non-dairy Fluid Milk Substitutions below.

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The decision as to whether or not a CE or site will provide the substitutions is at the discretion of the CE or site. CEs and sites are not required to satisfy the unique dietary needs of each child. TDA strongly encourages CEs and sites to work closely with the parent (or guardian) to ensure that reasonable accommodations are made to allow children with medical or special dietary needs to participate in the meal service. This is particularly important when accommodating children whose medical or special dietary need requires significant modifications or personal assistance.

A parent or guardian may provide one component of the reimbursable meal as long as the component meets the meal pattern requirements and the CE or site provides the remaining components.

Non-dairy Fluid Milk Substitutions

Children who cannot consume fluid milk due to medical or special dietary needs may be served non-dairy beverages in lieu of fluid milk.

Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrient levels found in cow's milk as outlined below:

Per Cup					
Nutrient	**Weight**	**Percentage**	**Nutrient**	**Weight**	**Percentage**
Calcium	276 mg.*	30	Magnesium	24 mg.*	6
Protein	8 g.*	----	Phosphorus	222 mg.*	20
Vitamin A	500 IU.*	10	Potassium	349 mg.*	10
Vitamin D	100 IU.*	25	Riboflavin	0.44 mg.*	25
Vitamin B-12	1.1 mcg.*	20			

*mg = milligrams; g = grams; IU = international units; mcg = micrograms

If a child is lactose intolerant, CEs and sites are encouraged to determine the availability of lactose-reduced or lactose-free milk with their milk supplier. CEs and sites are also encouraged to provide lactose-reduced or lactose-free milk as a fluid milk choice as a creditable part of a reimbursable meal.

Parents or guardians may request in writing non-dairy fluid milk substitutions without providing a statement signed by a recognized medical authority (this does not include a request to substitute whole or reduced-fat (2%) milk). CEs and sites must ensure the substitution meets the requirements as stated above. The written request from the parent or guardian must identity the medical or special dietary need that restricts the diet of the child. For example, a parent who has a child who follows a vegan diet may request soy milk be served to their child instead of cow's milk.

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NOTE: If the child's medical or special dietary need requires only textural modification(s) to the regular Program meal or if a substitution can be made using another creditable food item within the same meal component group, as opposed to a meal pattern substitution, then the medical statement is recommended, but not required.

EXAMPLES: 1) a child cannot swallow whole raw or cooked carrots, but can swallow pureed carrots; 2) a child is allergic to peanuts so the center substitutes ham and cheese for that child on the day the center provides peanut butter sandwiches for the other children.

The reimbursement rate for meals served to children with medical or special dietary needs is the same standard rate as all other Program meals; however, the added cost of providing meal substitutions is an allowable Program cost in your food budget. CEs and sites cannot require a parent or guardian to pay the difference between fluid milk and the non-dairy substitute if the non-dairy milk substitute costs more than the fluid milk.

4114 Meal Service Documentation

CEs and sites must ensure the food items used to prepare meals meet CACFP requirements as creditable food items. Food labels and other documentation identify the ingredients as well as the contribution towards a reimbursable meal a product contains. CEs must maintain this documentation on file and have it ready for review.

The types of labels and documentation needed in order to identify the food's contribution to the meal pattern requirements are:

- Ingredients listing/nutrition facts label
- A child nutrition (CN) label
- A product formulation statement from the food manufacturer

For menu items in which a CN label or product formulation statement cannot be obtained, it is recommended that additional food items are served that meet the meal pattern requirement to reduce the risk that the meal will be disallowed.

4114.1 Meal Production Record

CEs and sites must document the menu and meal production prior to the meal service on the *Daily Meal Production Record – Child Care* (H1530), or alternate form(s). Food items used must be documented as purchased using the Food Buying Guide. Additionally, meals that contain fluid milk must specify the type of milk including fat content, for example unflavored fat-free, and meals that contain grains must specify when the grain is whole grain-rich, for example wholegrain-rich (WGR) rolls, whole wheat pasta.

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Substitutions due to disabilities, and/or medical or special dietary needs must also be noted on the meal production record.

Changes to the record must be noted and initialed.

4114.2 Leftover/Recycle

CEs and sites that have food remaining after a meal service may use those food items for future meals under the following conditions:

- State and local health department requirements must be met.
- Food must be held at the proper temperature.
- Food can be recycled one time.
- Food that has been served using any meal service style cannot be recycled unless it is individually wrapped or self-contained (for example, apples, oranges, milk packaged as individual servings, etc.).

Documentation of leftover/recycled food must be maintained to demonstrate compliance with the meal pattern and operation of a non-profit food service.

CEs and sites may use TDA's *Record of Leftover/Recycled Food (H1568)* and/or *Daily Meal Production Record – Child Care* (H1530) to document leftover/recycled food or may create their own document to record this information. This documentation must be available during a review or upon request.

4114.3 Donations

CEs and sites that receive donations of food for use in the CACFP nonprofit food service must maintain documentation of such donations to include, at minimum:

1. Date of the donation
2. Description of the item(s) donated (i.e., fat-free milk)
3. Amount of the donation (i.e., gallons, half-gallons, pints)
4. Quantity of the donation (i.e., 10, 20)

Donation documentation could be an individual receipt or donation log or any other method that captures, at minimum the above information.

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4114.4 Ingredients Listing/Nutrition Facts Label

Ingredients listing and nutrition facts label are found on all food items, whether processed or not, with the exception of fresh fruits and vegetables. This information is used to confirm that the food product meets requirements for use in the CACFP. For example, bread must be whole wheat or enriched. This information is found in the ingredients list on the package of bread.

4114.5 CN Labels

Main dish products that contribute at least ½ ounce to the meat/meat alternates component of the meal pattern (for example cheese or meat pizzas, meat or cheese burritos, breaded fish, chicken nuggets) and juice and juice products containing at least 50% full-strength juice by volume (for example frozen juice bars and sherbet) are the only products eligible for Federal CN Labeling. 100% juice products are **NOT** eligible for a CN label.

Products containing the CN label will have the following information printed on the principal display panel of the label:

- Product name.
- Ingredients listed in descending order by weight.
- Inspection legend for the appropriate inspection.
- Establishment number (for meat, poultry, and seafood items only).
- Manufacturers or distributor's name and address.
- CN label statement. The CN label statement must be an integral part of the product label and include the following information:
  - CN logo, the distinctive border around the CN statement.
  - Six-digit product identification number which will appear in the upper right hand corner of the CN label statement.
  - A statement of the product's contribution toward meal pattern requirements for the Child Nutrition Programs.
  - A statement specifying that the use of the CN logo and label statement is authorized by USDA FNS.
  - The month and year the label was approved by USDA FNS.

If a CE or site purchases and serves a product without a CN label and the product does not meet CACFP requirements, the meal/snack will not be reimbursable, unless the CE or site has a product formulation statement for the item. See Item 11500, *USDA Child Nutrition (CN) Labels*, for more information.

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CEs and sites must keep:

- The original CN label from the product carton.
- A photocopy of the CN label shown attached to the original product carton; or
- A photograph of the CN label shown attached to the product carton.

Photocopied or photographed CN labels must be visible and legible to be acceptable documentation.

Generally, watermarked CN labels printed from a website are not acceptable documentation. However; if the original, photocopied, or photographed CN Label is not available a CE may provide:

- The bill of lading (invoice) containing the product name; **and**
- A hard copy of the CN Label copied with a watermark displaying the product name and CN number provided by the vendor; or
- An electronic copy of the CN Label with a watermark displaying the product name and CN number provided by the vendor.

CN labels are generally approved for a period of five years; however some approvals are for a shorter period of time such as one year. The list of authorized CN labels includes the CN label expiration date. CEs and sites should frequently check this list to ensure the CN labeled products being used are still authorized and creditable.

To locate a list of authorized CN labels issued to manufacturers go to the USDA FNS CN Labeling website at http://www.fns.usda.gov/cnd/cnlabeling/authorized.htm.

Manufacturers may not, under any circumstances, place the CN logo and contribution statement on fact sheets or other product information.

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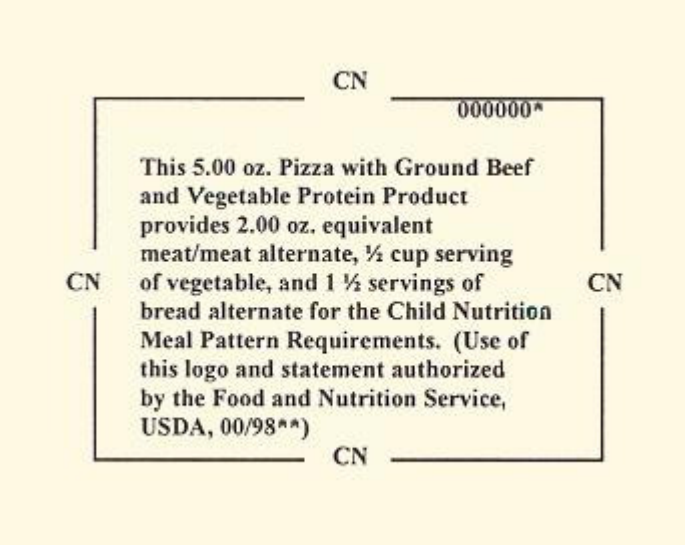
Example of a CN Label:



* CN identification number
** Month and Year of original approval

4114.6 Product Formulation Statements

When purchasing a processed product that does not contain a CN label, the CE or site may request a product formulation statement from the manufacturer.

A product formulation statement from a food manufacturer must contain:

- A detailed explanation of what the product actually contains.
- The amount of each ingredient in the product by weight or measure, as appropriate.
- A certifying statement as to the contribution of the product to the meal pattern.
- The signature of a high-ranking official employed by the manufacturer.

CEs and sites are responsible for:

- Reviewing the manufacturer's product formulation statement before serving to determine the credibility of information provided by the manufacturer.
- Ensuring the proper documentation is maintained on each commercially prepared product used to meet USDA meal pattern requirements.
- Assuring that the food product meets specifications and has the correct code number.

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Sample product formulation statements that have been developed to assist CEs and sites when documenting the creditable amount of food in products to meet meal pattern requirements can be found on the USDA FNS CN Labeling website at:

http://www.fns.usda.gov/cnd/cnlabeling/foodmanufacturers.htm.

NOTE: Product formulation statements are sometimes referred to by other names, such as product analysis, specifications, or recipe analysis.

4115 Food Preparation

CEs and sites may prepare food on-site, at a central kitchen or may purchase meals from a vendor. Regardless of the method of food preparation, the meal pattern requirements, record keeping requirements, as well as all other requirements must be met.

4115.1 On-site Food Preparation

Independent centers and sponsored sites generally prepare their own meals. Those who do are responsible for their own purchasing, menu planning, cooking, serving, and cleanup.

USDA prohibits the use of deep-fat fried foods that are prepared on-site, in a central kitchen, or satellite kitchen as part of a reimbursable meal. Deep-fat frying means cooking by submerging food in hot oil or other fat. This prohibition does not apply to vended meals that contain deep-fried foods as long as the deep-fried food was prepared by the vendor off-site.

Foods that are pre-fried, flash-fired, or par-fried by a commercial manufacturer may be served, but must be reheated by a method other than deep-fat frying.

4115.2 Vended Meals

CEs and sites may choose to purchase meals from a food service management company/vendor or school.

CEs and sites may purchase meals in bulk or as units. Whether the CE or site prepares their own meals or they purchase meals for delivery, they are responsible for ensuring that the meals meet CACFP meal pattern requirements.

CEs and sites purchasing meals must do so according to the procurement policies in this handbook.

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Food Service Management Companies

Food service management companies (FSMC) are generally for-profit vendors, e.g., caterers. If a CE or site wants to contract with an FSMC, they must follow the procurement guidelines provided in Section 7000, *Financial Management*.

Program Meals Obtained from a School Food Authority that Participates in the NSLP/SBP

CEs and sites that obtain meals through a contract with a school food authority (SFA) must adhere to the following procedures:

- **Meal Production Records -** The CE or site may use the meal production records provided by the school as documentation for the CACFP meal service.

  CEs and sites are required to keep the delivery receipt from the school for each day's meal service as documentation of the meal offered. The delivery receipt must indicate the following:

  - Identify the menu items;
  - Amount/quantity of each menu item delivered;
  - Number of servings of each item; and
  - Serving instructions, such as what constitutes a serving and which serving utensil to use. (The serving size is based upon the meal pattern requirements as provided to the school by the CE or site in the contract.)

- **Food Service Management Company/Vendor Site Review –** CEs and sites do not have to complete an on-site review of the food preparation facility, however; the CE or site must complete the *Food Service Management Company/Vendor Monitor Review* (H1529), Sections 3 and 5, for an observed meal service.

- **Meal Analysis –** The meals provided by the school are subject to a meal analysis conducted by the TDA department that monitors the NSLP/SBP.

REMINDER: This only applies to CEs and sites that purchase Program meals from a SFA that participates in the NSLP/SBP.

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4115.2.1 Monitoring FSMC/Vendor Contracts

If a CE or site contracts with a Food Service Management Company (FSMC) or vendor to provide food service, the CE or site must conduct an annual on-site monitoring review of each food preparation site used by the FSMC/vendor to provide meals for their contract. The review must be conducted during each CACFP Program Year (October 1 through September 30 of any given year). CEs and sites must use the *Food Service Management Company / Vendor Monitor Review* (H1529), to conduct the monitoring review.

Sponsors may conduct this review in conjunction with the required reviews of their sites, but are not required to do so.

4116 Service of Traditional Foods

NOTE: This does not apply to for-profit contracting entities

CEs and sites that are public entities or nonprofit organizations, including those operated by Indian tribes and tribal organizations, which primarily serve Indians, are allowed to accept the donation of traditional foods and serve traditional foods as part of a reimbursable meal.

Traditional foods are defined as food that has traditionally been prepared and consumed by an Indian tribe which includes the following types of food:

- Wild game meat
- Fish
- Seafood
- Marine mammals
- Plants
- Berries

To make use of these products, the CE and site must make sure the following requirements are met:

- Ensure that the food received is whole, gutted, gilled, as quarters, or as a roast, without further processing.
- Make a reasonable determination that the
  - animal was not diseased;
  - food was appropriately butchered, dressed, transported, and stored to prevent contamination, undesirable microbial growth, or deterioration; and
  - food will not cause a significant health hazard or potential for human illness.

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- Carry out any further preparation or processing of the food at a different time or in a different space from the preparation or processing of other food for the Program to prevent cross-contamination.
- Clean and sanitize food-contact surfaces of equipment and utensils after processing the traditional food.
- Label donated traditional food with the name of the food item.
- Store the traditional food separately from other food for the Program, including through storage in a separate freezer or refrigerator or in a separate compartment or shelf in the freezer or refrigerator.
- Follow Federal, State, local, county, Tribal, or other non-Federal law regarding the safe preparation and service of food in public or nonprofit facilities.
- Follow other such criteria as established by the Secretary of Agriculture and Commissioner of the U.S. Food and Drug Administration.

Donation of traditional foods must be documented as required in Item 7450, *Donations*.

4117 Excess Meals

CEs and sites must plan and prepare meals with the intent of serving one meal per participant per approved meal type per day. However, due to unanticipated fluctuations in participation a CE or site could produce more meals than participants in attendance to consume them.

CEs and sites are encouraged to seek alternatives to avoid food waste before discarding the excess food.

Some potential alternatives include, but are not limited to:

- Refrigerating the food for next day use (recycling); and/or
- Donating the excess foods to homeless shelters, food banks, or food pantries.

CEs and sites must ensure they follow all local health and sanitation codes before sharing or donating food.

CEs and sites that have excess food and set up a sharing table or donate the excess food must adhere to the following requirements:

- Documentation of:
  - Date of excess food;
  - Reason for the excess food; and
  - What was done with the excess food (i.e., donated).

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- For donated food, a written agreement with the agency receiving the donated food that includes at minimum:
  - Terms of the agreement;
  - Duties of the agency; duties of the CE or site; nondiscrimination;
  - Representatives of the agency receiving donated food not an officer, employee, or agent of the CE or site;
  - Liability;
  - Hold harmless and indemnification; and
  - Certification of liability insurance.

A sample agreement is located in Section 11000, *Resources*.

The instances of excess food should be extremely limited and CEs and sites must ensure that they adhere to CACFP requirements in planning and preparation of meals.

4118 Use of USDA Foods

CEs and sites may participate in both CACFP and The Emergency Food Assistance Program (TEFAP). TEFAP is an emergency food assistance program that supplies USDA Foods to eligible recipients through organizations such as soup kitchens, pantries, or other organizations.

Federal regulations require that if USDA Foods are distributed or used in prepared meals, recipients must not be required to make any payments in money, materials, or services for or in connection with the receipt of USDA Foods.

CACFP cash-in-lieu funds must be kept separate from other funds (including TEFAP administrative funds), since the CACFP cash-in-lieu funds must be used only to purchase or obtain foods for use in CACFP. CEs and sites may use CACFP cash-in-lieu funds at food banks for obtaining non-USDA Foods. Refer to Section 3000, *Program Agreement*, for more information regarding USDA Foods.

4120 Meal Time Restrictions

CEs and sites must ensure that the following meal time restrictions are observed:

- Breakfast meal service may be no more than **two hours** in duration;
- Lunch meal service may be no more than **two hours** in duration;
- Supper meal service must begin no earlier than the end of the normal school day and may be no more than **two hours** in duration;
- Snack service may be no more than **one hour** in duration and must begin no earlier than the end of the normal school day;

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- Two hours must elapse between the beginning of a:
  - Meal service and the beginning of a snack (this includes a snack served through the NSLP Afterschool Care Program (ASCP))
  - Snack (this includes a snack served through the NSLP ASCP) and the beginning of a meal service
  - Snack (this includes a snack served through the NSLP ASCP) and the beginning of another snack (if the CE/site has received prior approval, see note below)

NOTES:

- Supper and snack meal service times on the weekends or school holidays do not have to be the same as the meal service times during the week
- Snack meal service does not have to occur prior to supper meal service
- A CE and site may be approved to serve two snacks (as opposed to one snack and one meal) with TDA approval – requests must be made in writing and include a justification
- Extended day schools may participate as long as the program begins after the regular school day has ended. Refer to Section 10, *Afterschool Meal Programs*, of the NSLP *Administrator's Reference Manual*, for guidance on how schools determine the end of the regular school day.

4130 Meal Service Styles

CEs and sites may serve meals:

- As a unit (cafeteria style/pre-plated/unitized).
- Family style.

In either type of meal service, the CE or site must ensure that the minimum quantities of each meal component are available to each child. In cafeteria-style meal service, each child must be served at least the minimum amount of each component.

An emergency shelter may permit parents or guardians to prepare their own meals using food items provided by the shelter; however, meals must be served and eaten in a congregate setting. Meals that are consumed in private family quarters in a shelter are not reimbursable.

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4131 Cafeteria/Pre-plated/Unitized

Cafeteria style meal service occurs when children are served food components as they proceed down a serving line.

Pre-plated and unitized style meal service occurs when the CE or site pre-plates all required components of the meal in the minimum serving sizes and serves them as one unit to the child.

4131.1 Offer Versus Serve

Offer versus serve (OVS) is an approach to menu planning and meal service that allows children to decline some of the food offered in a reimbursable breakfast, lunch, or supper. OVS is not allowed at snack.

Using OVS can help at-risk afterschool programs reduce food waste and costs while maintaining the nutritional value of the meal that is served; however, the use of OVS is optional.

OVS at Breakfast

The CACFP breakfast meal pattern requires three food components to be offered: milk, fruits and vegetables, and grains. As a reminder, fruit and vegetables are one combined component in the breakfast meal patterns.

When using OVS at breakfast, at least the following four food items, in the required minimum serving sizes, must be offered:

1. A serving of milk;
2. A food item from the fruit and vegetable component;
3. A food item from the grains component; and
4. A food item from the meat/meat alternate component **or** one additional item from the fruit and vegetable component **or** grains component.

All the food items offered must be different from each other. For example, while a flake cereal, such as bran flakes with raisins, and a puff cereal, such as a puffed rice cereal, are two types of cereals that are not identical, they are the same food item.

A child must take at least three different food items from any of the food items offered. The food items selected may be from any of the required components and must be in the required minimum serving sizes.

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Here is an example of a reimbursable OVS breakfast menu:

- ½ cup berries;
- ½ cup grapefruit;
- 1 serving pancakes; and
- 1 cup (8 oz) of fluid milk

OVS at Lunch or Supper

The CACFP lunch and supper meal patterns requires all five food components to be offered: milk, meat/meat alternates, vegetables, fruits, and grains.

When using OVS at lunch or supper, at least one food item from each of the five food components, in the required minimum serving sizes, required at lunch and supper must be offered:

1. A serving of milk;
2. A food item from the meat/meat alternate component;
3. A food item from the vegetable component;
4. A food item from the fruit component; and
5. A food item from the grains component

Similar to OVS at breakfast, all of the food items offered at lunch and supper must be different from each other. For example, while apple slices and apple sauce are two types of apples that are not identical, they are the same food item. Unlike OVS at breakfast, at lunch or supper meals using OVS, a child must take at least three food components, rather than three items, to ensure the child takes an adequately nutritious meal. A child must select at least the minimum required serving size of the components for them to be counted. It is the child's choice to select or decline a food component. At-risk afterschool care centers may not specify what food components a child must select.

Here is an example of a reimbursable OVS lunch menu:

- 2 ounces Parmesan Chicken;
- ½ cup spinach salad;
- ¼ cup broccoli;
- 1 cup pasta; and
- 1 cup (8 oz) of fluid milk.

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When using OVS, CEs and sites have the option to go beyond the minimum requirements. Within each component, different food items may be offered, giving children many combinations for building a reimbursable meal. Offering different food items when using OVS increases the likelihood that children will select foods they prefer and reduces waste.

For example, an OVS lunch menu may offer milk, roasted chicken, black beans (credited as a meat alternate), rice, broccoli, and apple slices. This menu includes two food items from the meat/meat alternate component (roasted chicken and black beans) for children to choose from. Please note, one serving of dry beans and peas may count toward the meat/meat alternate component or the vegetable component, but not both in the same meal.

In this menu, the black beans are designated as a meat alternate. The CE or site must decide how dry beans or peas are credited **prior** to meal service and it cannot be switched during meal service. Therefore, a child could not select milk, roasted chicken and black beans, and have it count as three components in this example.

As explained above, offering two servings of the same food item is not permissible under OVS. All food items offered must be different from each other. For example, an OVS breakfast with a serving of milk, banana, and two servings of toast (e.g. toasted enriched cinnamon-raisin bread and toasted whole-wheat bread) would not be reimbursable because the toast is two servings of the same food item.

NOTE: All grain items offered must be whole grain-rich for the meal designated to meet the whole grain-rich requirement or if the CE or site only serves one snack or meal per day.

However, a CE or site could provide children choices within a food item as long as at least four different food items are offered at breakfast and at least five different food items are offered at lunch or supper meals. For example, an OVS breakfast could include:

- Milk;
- Banana;
- Two types of toast (e.g. toasted enriched cinnamon-raisin bread and toasted whole-wheat bread); and
- Cereal.

Further, a larger food item that is worth two servings in weight, such as a two ounce bagel, counts as only one food item under OVS, not two.

If the CE or site offers combination foods or two or more food items from one food component, such as bread and rice, instructions or signs must be available to let staff and children know what choices make up a reimbursable meal.

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The instructions and signs should let a child know that they cannot select two of the same food items or components. For example, a child could not select two pieces of toast and milk and have it count towards a reimbursable breakfast because only two different food items were selected. Additionally, a child could not select two servings of chicken and one serving of rice and have it count toward a reimbursable lunch because only two components were selected.

While the child may decline some food items or components in OVS, they must take the full minimum serving size of the food components they choose in order for the meal to be reimbursable.

If a CE or site runs out of a component, all meals served after the required component is unavailable may not be claimed. If a CE or site runs out of a food component, all meals served after that point are not reimbursable because the CE or site was unable to offer the rest of the children a complete reimbursable meal. However the CE or site can replace the food item with another food item in the same food component and the meals would still be reimbursable. CEs and sites are encouraged to offer a variety of options to ensure children receive a healthy well balanced meal which contains all components. This reduces the chance of running out of a required component, resulting in meals that cannot be claimed.

The offer vs. serve option cannot be used in the family style meal service.

4132 Family

Family style meal service occurs when children are allowed to serve themselves from common serving dishes of food placed on the table.

In family style meal service:

- A sufficient amount of prepared food must be placed on each table to provide the full, required portions of each of the food components for all children at the table, and to accommodate adults if they eat with the children;
- Children should initially be offered the full, required portion of each meal component. The family style meal service allows children to make choices in selecting foods and the size of initial servings;
- It is the responsibility of the CE/site, during the course of the meal, to actively encourage each child to accept service of the full, required portion for each food component of the meal pattern, e.g., if a child initially refuses a food component, or initially does not accept the full, required portion of a meal component, the CE/site staff should offer the food component to the child again; and
- Second meals cannot be claimed for reimbursement.

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In line with the nutritional goals of the CACFP, family style meal service encourages a pleasant eating environment, promotes mealtime as a learning experience by allowing children to serve themselves from common platters of food (with assistance as needed) and provides educational activities that are centered around food. Even when a complete family style meal service is not possible or practical, it may be useful to offer one component or multiple components in a family style manner.

When child does not take a food component or the full minimum serving size of a food component during family style meals, the CE must encourage the child to serve themselves the full minimum serving size. However, if the child does not serve themselves a food component or take the full minimum serving size of a food component the meal may still be reimbursed.

If a child takes more than the minimum required and the serving dish is emptied before each child is served then the CE or site must re-fill the serving dish so each child is offered a complete reimbursable meal.

A meal can be considered reimbursable and marked as received (point-of-service) when

- It is observed that all required components in quantities sufficient to feed each child participating in the meal service the required portion sizes are on the table; and
- The child is observed participating in the meal service.

Although TDA strongly encourages allowing children to serve themselves in a family style meal service, it is not required.

4140 Congregate Feeding

Meals served in the CACFP are intended to be consumed in settings where organized groups of children are gathered to eat; therefore meals must be consumed on-site in order for the meal to be reimbursable. CEs and sites must not allow children to take meals off-site for later consumption.

Failure to comply with the congregate feeding requirement will result in the disallowance of meals and may lead to placement in the serious deficiency process. Refer to Item 4141, *Taking Food Off-site* for additional information and allowable practices.

4141 Taking Food Off-site

USDA and TDA recognize that some children may want to save food items to eat at a later time. For this reason, CEs and sites may allow children to take ONE vegetable or fruit or grain item off-site to eat at a later time.

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The food item a child takes off-site must be from the child's own meal or snack, or left on a share table by another child who did not want it. Refer to Item 4150, *Share Tables* for additional information.

Allowing children to take one item off-site is not a requirement, but CEs and sites that choose to implement this flexibility must have the capacity to monitor when food items are being taken off-site to prevent any food safety or integrity issues from arising.

CEs and sites do not have to receive approval from TDA prior to implementing this flexibility; however if it is determined at a review that there is not adequate oversight TDA may prohibit a CE or site from using this flexibility in future meal services. TDA's decision to prohibit allowing food items to be taken off-site is not an appealable action. Prior to implementing this flexibility, CEs must ensure local and State health codes allow food items to be taken off-site for later consumption.

4150 Share Tables

Children who, for various reasons, do not want to consume certain food or beverage items included in their meal may return whole food or beverage items they choose not to eat to a share table.

1. CEs should establish clear guidelines for food components that may and may not be shared or reused as part of a later reimbursable meal:
    a. Food components recommended for sharing:
        i. Unopened pre-packaged items, such as a bag of baby carrots or sliced apples stored in a cooling bin.
        ii. Whole pieces of fruit, such as apples or bananas.
        iii. Unopened milk, if immediately stored in a cooling bin maintained at 41˚ F or below.
    b. Food components NOT recommended for sharing:
        i. Unpackaged items, such as salad in a bowl without a lid.
        ii. Packaged items that can be opened and resealed.
        iii. Open items, such as an opened bag of baby carrots.
        iv. Perishable foods, when temperature control mechanism is not in place.

2. If State and local laws permit sharing food items that require cooling, CEs should establish strict food safety guidelines to prevent the risk of foodborne illnesses:
    a. Maintain proper temperature and temperature logs (41˚ F or below) by storing food components in a temperature controlled storage bin, such as an ice tub or cooler.

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b. Make note of expiration dates on packaged foods and do not intermix reused items with items that have not yet been prepared and served.
c. Decide how many times a food item can be reused.

3. CEs should supervise the share table at all times to ensure compliance with food safety requirements:
    a. Ask site staff to make sure packaging of items placed on the share table is not open, punctured, or otherwise compromised.
    b. If cooling bins are used, have site staff monitor the bin to ensure that time and temperature control requirements are met.
    c. Invite children to participate as "share table helpers" or to assist site monitors to teach them about food safety and recycling.
4. CEs should promote the share table to children and families:
    a. Provide children and families with information about share table guidelines.
    b. Ask for input from parents and guardians, and make sure families are comfortable with their children participating in the share table option.
    c. Explain the share table concept to children and emphasize the importance of healthy eating and trying new foods whenever possible.
    d. Display signage outlining share table "rules" and encouraging recycling.

The food and beverages returned to a share table may then be used in a number of ways:

- Children may take an additional helping of a food or beverage item from the share table at no cost;
- Food or beverage items left on the share table may be served and claimed for reimbursement during another meal service; and/or
- Food or beverage items may be donated to a non-profit organization, such as a community food bank, homeless shelter or other non-profit charitable organization (see Item 4117, *Excess Meals*).

CEs and sites must ensure the use of a share table is allowed in the CEs or sites city/county and if not prohibited that all local and State health and food safety codes are followed.

CEs and sites must also ensure the following:

- Steps are taken to encourage each child to consume his/her meal, including preparing appealing meals and serving them in a convenient manner;
- Milk is only recycled when the carton is unopened
- Reuse of food and beverage items only occur in situations where it is necessary to prevent food waste.

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4160 Prohibition of Separation by Gender

Regardless of which meal service style is chosen, CEs and sites may not separate children on any protected basis, including gender, during a meal service, whether or not that child is participating in the meal service.

USDA recognizes there are some situations in which separation by gender may be permissible. A CE may request an exemption to the prohibition against separation by gender in the following circumstances:

- Religious institutions – meal service is provided at a religious institution that operates under the dictates of the religion with which they are affiliated.
- Juvenile correctional facilities – meal service is at a correctional facility where combining members of the opposite gender would present a potential safety risk.
- Facilities that separate by gender as normal part of their operations – meal service is at a facility such as a gender-separated camp.
- Other – those situations that do not meet the criteria above. These types of requests will be reviewed on a case-by-case as must be approved by TDA and the FNS.

CEs requesting this exemption will use the *Gender Separation Exemption Request* form located in the Application Module, Download Forms page in TX-UNPS.
Refer to Section 6000, *Civil Rights* for further information on discrimination and protected classes.

4170 Counting Meals and Snacks

CE's and site's meal count system must:

- Provide accurate counts of reimbursable meals and snacks served to eligible children; and
- Ensure the count is taken at the point of service (where it is observed that the child receives a reimbursable meal).

Limit on Quantity of Reimbursable Meals

CEs and sites may serve any or all of the following:

- Breakfast
- Lunch
- Supper
- Afterschool Snack

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To be counted and claimed, meals and snacks must meet meal pattern requirements and must be:

- Served to children who are participating in the educational or enrichment program;
- Eaten at the site (congregate feeding);
- Served to children who meet CACFP age requirements (through age 18 years, 19 if the child turns 19 during the school year.) Children with disabilities are eligible without regard to age;
- Served at a time that TDA has approved;
- Served by a CE or site that TDA has approved for participation in the CACFP;
- Supplied by the CE or site;
- Prepared by a source (self-prep or vended) that TDA has approved.

Emergency shelters may claim meals served to children on weekdays and weekends.

CEs and sites cannot claim reimbursement for meals or snacks that are:

- Provided by a child's parent/guardian, e.g., a sack lunch.
- Served to adults.

NOTES:

- Breakfast can be claimed **only** during school holidays or weekends during the school year.
- Lunch can be claimed **only** during school holidays or weekends during the school year, **except that** lunch meals may be claimed for those children who only attend school half-day, such as pre-school.
- CEs and sites **cannot** claim reimbursement while school is out of session over the summer break.

4171 Meal Service Record

CEs and sites must record meal counts and attendance on a daily basis. Meal counts must be recorded at the point of service where CE and site staff observes that an eligible child receives a creditable meal or snack. A meal or snack is creditable when a child receives all required components in the correct quantities.

If a CE or site serves meals cafeteria style, a staff member must be stationed at the end of the serving line to count the meals as they are served. If a CE or site serves meals family style, a staff member must count the meals when they are served.

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CEs and sites must record meal counts on the *Daily Meal Count and Attendance Record (At-risk)* (H1535-AT), or an alternate form. The *Daily Meal Count and Attendance Record (At-risk)* (H1535-AT), or alternate form must be completed in ink or other non-erasable form and all changes to the form must be initialed and dated by the person making the change.

CEs and sites using alternate documentation must ensure all information, including the certification statement and spaces for date and signature, contained on the TDA developed forms is contained on the CE or sites alternate documentation and available for review, to avoid disallowances.

CEs and sites must ensure that all items on the form are completed, including the:

- Date of food service.
- Names of all children enrolled in day care; or for at-risk, names of children participating in the education or enrichment program.
- Age of each child.
- Meal counts, by meal type, for each participant.
- Total participant meals, Program staff meals and non-Program meals served.

The *Daily Meal Count and Attendance Record (At-risk)* (H1535-AT) contains a certification statement that must be signed and dated by the CE or site representative.

CEs and sites that possess the means to complete the *Daily Meal Count and Attendance Record (At-risk)* (H1535-AT), or an alternate, electronically **at the point of service** may do so provided that they:

- Have the means to securely capture the required CE or site representative date and signature; and
- Have the ability to print the form on demand, to ensure compliance with the records availability requirements as outlined in Item 5300, Administrative Reviews. CEs and sites must have a plan in place to address technical difficulties such as system failures.

NOTE: Electronic completion at point of service does not mean taking the meal count manually and then entering the attendance and meal counts in a spreadsheet or software package and disposing of the original source documentation. CEs and sites must maintain the original documentation for the required retention period.

4172 Second Meals During One Meal Service

CEs and sites must plan and prepare meals and snacks with the intent of serving no more than one meal and/or snack per child per day.

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Second meals and/or snacks may be claimed only if the second meals were served due to an unanticipated fluctuation in participation resulting from conditions beyond the CE's or site's control; and

- The meals were served cafeteria/pre-plated/unitized style. CEs and sites may not claim second meals under any condition when the meals are served family style.
- The second meals complied with meal pattern requirements.
- The second meals were served to eligible Program participants.
- The CE or site submits documentation justifying the second meals.
- TDA approves the justification for serving second meals due to reasons beyond the CE's or site's control.

CE's and site's meal production records, or other documentation, must show that the quantity of each prepared component was adequate for each meal served (including any second meals) and contained the minimum of each required component.

EXAMPLE: Based on historical participation data the cook prepares suppers for 30 children. Threatening weather conditions caused only 15 children to attend the afterschool program. In this situation, weather caused a fluctuation in attendance, which in turn resulted in sufficient food being prepared to serve the remaining 15 children seconds.

Therefore, if all the above requirements are met, the CE or site may claim second meals and/or snacks served to the 15 children that attended the afterschool program.

4173 Field Trips

The Texas Health and Human Services Commission (HHSC) Child Care Licensing (formerly DFPS) consider organized activities directly related to the provision of child care, e.g., field trips, to be an "extension of the center and subject to regulation." Therefore, CEs and sites may claim reimbursement for meals that are served during a field trip if:

- The activity is directly related to child care.
- All Program requirements are met.

Program requirements include, but are not limited to, the following:

- Meals must meet meal pattern requirements for the appropriate age group and must be served to eligible children.
- All state and local health department standards, including maintaining food at proper temperatures, must be followed.
- Daily meal production records that include the food items and amounts of food prepared must be maintained.

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- Meal counts for meals served to eligible children must be documented on the *Daily Meal Count and Attendance Record* (H1535-AT), or an alternate meal count form.
- Meals must be provided by the approved source (self-prep or vended) named in the *Site Application - Centers*. If a food service management company (FSMC) supplies the meals, they must be provided in a manner and detail prescribed in the *Invitation for Bid and Contract for Purchased Meals*.
- Meals purchased from restaurants or "fast food" outlets are not reimbursable without a product formulation statement from the food manufacturer.
- Meals that are served to children who are in transit to the center or their homes cannot be claimed as reimbursable meals.

Field trips must be documented in writing, and must include the following information:

- Date of trip;
- Destination of trip;
- Duration (departure and return time) of the trip;
- Meal types served on the trip;
- A description of the location where the meal was served;
- A description of the method used to ensure that foods are held at proper temperatures;
- A list of foods served on the field trip; and
- A list of everyone that participated in the field trip.

In addition, the employee completing the documentation of the field trip must sign a certification statement that reads:

> **"I certify that to the best of my knowledge the information reported about this field trip is true and correct. I understand misrepresentation may result in prosecution under applicable state or federal laws. I certify that meals were prepared, delivered, and served in accordance with all state and local health department standards."**

CEs and sites are not required to obtain prior approval from TDA when planning a field trip. However, a sponsor may require that sites obtain prior approval for field trips as a condition of reimbursement for meals served off-site.

Occasionally, field trips may include a visit to a Summer Food Service Program (SFSP) site. CEs and sites cannot claim reimbursement for meals that are provided and served by SFSP sites.

A sample form, *Field Trip Food Service Documentation*, is provided in Section 11000, *Resources*. CEs and sites are not required to use this form, but must ensure that the required elements are recorded on the day of the field trip.

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4200 Program Administration

If a CE creates, develops, or produces materials with federal funds, the USDA FNS may reproduce or publish the material. USDA FNS may also authorize others to reproduce, use, or publish the material. A CE may reproduce any material developed by TDA or USDA as long as the reproduction is:

- Used in an USDA FNS program.
- Not used for profit.

4210 Management and Monitoring

CEs are responsible for the management and monitoring of the Program in their centers; additionally, a sponsor is responsible for the management and monitoring of the sites that it sponsors. These responsibilities include:

- Making pre-approval visits (sponsors only).
- Adding, submitting changes for, and terminating sites.
- Ensuring sites maintain a current license/exemption (if applicable).
- Conducting training.
- Conducting reviews (sponsors only).
- Providing technical assistance.
- Disbursing payments to sites (sponsors only).
- Ensuring sites submitted for participation are not disqualified from participation in any Child Nutrition Program, as well as ensuring site staff in principal positions or performing CACFP functions are not disqualified (see Section 1000, *Introduction* for a list of other Programs).

4211 Parental Notification

CEs must notify households that the CE participates in the CACFP.

Additionally, sponsors must ensure that their sites provide the same notification. The CE may provide this information or may require the sites to provide this information to the households. The *Building for the Future* flyer located at https://www.squaremeals.org under CACFP Administration and Forms must be used to satisfy this requirement.

The flyer presents the information in English and Spanish (other translations will be made available upon request) and provides:

- A brief statement about the CACFP.
- Notice of the CE's/site's participation in the CACFP.

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- The USDA and TDA toll-free telephone numbers for households with questions or concerns about the CACFP.
- The name and telephone number of the CE with administrative oversight of the center or sponsored site.

CEs must retain documentation of their method of distribution.

CEs and/or sites must:

- Distribute the flyer annually by the beginning of each CACFP Program Year;
- Provide the flyer to households who enroll children for child care or who participate in the at-risk program during the CACFP Program Year
- Ensure that the English and Spanish versions of this flyer are posted where it can be easily seen.

Additionally, sponsors must also post the English and Spanish versions of the flyer in their administrative office(s).

4212 Documentation of Attendance

CEs and sites must maintain a daily attendance log or roster of the children attending their educational or enrichment program. The daily attendance roster must contain each child's name and age.

CEs and sites can use TDA's *Daily Meal Count and Attendance Record* (H1535-AT), or alternate, to record attendance and meal counts. If the at-risk afterschool care center uses TDA *Daily Meal Count and Attendance Record* (H1535-AT) it will satisfy the attendance log or roster requirement.

4213 Policy Statement

The Contracting Entity Management Plan contains the *Free and Reduced-Price Policy Statement* which CEs must agree to in order to participate in the CACFP. CEs must sign this statement with their initial application and with the renewal application, if needed.

4214 State Government Privacy Policy

Texas' State Government Privacy Policy legislation stipulates that an individual has the right to review their personal information as maintained by a state agency. An individual also has the right to request the correction of inaccurate information. TDA is required to consider the request, but reserves the right to determine whether the requested correction is appropriate.

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A privacy statement is written at the bottom of all TDA forms that request personal information about a specific individual, and at the bottom of the TX-UNPS logon page under TDA Disclaimer.

4215 Making Changes in Operations

A CE must notify TDA of changes to its operation (such as changing meal times) through its CE application or site application in TX-UNPS, and mail, fax or email any required documentation to TDA.

The following information must be submitted:

- *CE Application* or *Site Application* (in TX-UNPS) as appropriate; and
- Any additional documentation needed dependent on the change. For example, if the change is an address change, you must submit a copy of the new license that reflects the address change and proves the site is licensed to operate at that location or if exempt, documentation of compliance with health and safety requirements.

NOTE: A site cannot be approved if it does not meet the licensing and/or health and safety requirements.

4220 Training and Education

Proper training is an important element in ensuring compliance with Program requirements and minimizing disallowances, unallowable costs and termination of Program participation. CEs are required to provide and attend training, as described below.

Educating staff, sites, and participants in proper nutrition, physical activity, and healthy lifestyles (including limiting the use of electronic media) is also an important part of the Program purpose. Although promoting physical activity and limiting the use of electronic media is not required, CEs are encouraged to devote time to educating participants. The cost of these efforts can be an allowable expense and is further described in Item 4333 *Physical Activity and Limiting the Use of Electronic Media* and in Item 7400, *Nonprofit Food Servic*e, and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

4221 Required Training - Sponsoring Organizations

- New site staff must receive training **prior** to the site's participation in the Program and annually thereafter.
- New site staff who performs key activities must receive training **prior** to beginning key activities.
- Participating site staff must attend training annually.

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- A new employee of the sponsoring organization (SO) who performs key activities must receive training **prior** to beginning key activities.
- A current employee of the SO must receive training annually.

Sponsors must plan trainings that are appropriate to the experience level and duties of the sponsor's and site's staff. Experienced and inexperienced staff should not get the same training year after year; however, repetition of some information may be necessary to ensure continued Program compliance.

Although all topics must be included in the annual training, a sponsor may provide more information on some topic than others. A sponsor's training should always address areas in which deficiencies have been identified.

There is no requirement for the amount of time spent on training. Therefore, a sponsor may only need a short review on some topics, while other topics require a longer period of time.

Training may be conducted in a variety of ways to meet the needs of the sponsor's and site's staff. Sponsors may use classroom style, on-site, distance learning (with the exceptions listed below), or other innovative training techniques, provided the training is properly documented and the training accomplishes the regulatory requirements for training content and frequency.

However, sponsors may **not** fulfill the training requirements by providing a training video to and requiring staff to certify that they watched it. Training on video, web-based training, and/or other independent learning approaches are only permitted to fulfill the requirement if there are means to verify that each trainee has actually received the training, i.e., pre- and post-tests, activities, exercises, etc. Sponsors may use electronic signatures to verify that sponsor and site staff has completed electronic training.

4221.1 New Site and Sponsor Staff

The sponsor, its staff and new site staff who perform key CACFP activities must participate in or receive training in the following areas and subtopics:

- Program Meal Pattern
  - Child meal pattern
  - Serving sizes for age groups
  - Creditable foods
  - Meal service styles
  - Accommodating special needs diets
  - Menu planning

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- Meal Counts
  - Daily (point of service)
  - Weekly
  - Monthly
- Claims Submission
  - Due date
  - Late claims
  - Adjusted claims
- Claims Review Procedures
  - Review elements
  - Adverse Action
  - Appeal rights
- Recordkeeping Requirements
  - Daily, weekly, monthly forms
  - Meal production records
  - Attendance records
  - Financial records
  - Record retention
- Purchase meals (FSMC/Vendor)
- Reimbursement System
  - Administrative fee
  - Payment schedule
- Civil Rights

TDA provides Civil Rights training materials on the TDA website at http://www.squaremeals.org, click on F&N Resources, then "Training," select "Online Education and Self Study", and finally choose the English or Spanish course.

TDA may require sponsors to attend additional training during the Program Year. Sponsors will be notified if and when mandatory training is scheduled.
Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

4221.2 Participating Sites and Current Sponsor Staff

After a sponsor's first Program Year of participation, the sponsor, its staff, and site staff that perform key CACFP activities must participate in or receive training annually in the same areas and subtopics as listed in 4221.1.

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TDA may also require sponsors to attend additional training during the Program Year. Sponsors will be notified when mandatory training is scheduled.

During the Program Year staff may change. New sponsor and site staff are required to be trained on the areas and subtopics. It is the sponsor's responsibility to ensure new site employees who will be performing key activities receive training prior to beginning these CACFP functions.

The sponsor can develop a method to ensure this training is performed and compliance with the requirement for the staff member to participate is met. This can include the sponsor providing the training as needed, or developing a training plan with the site for a trained site employee to provide the training. All documentation requirements apply in either situation.

The sponsor is responsible for verifying compliance with the training requirements during their review of the site, if the site personnel provided the training.

4222 Required Training - Independent Centers

CEs must train each staff member before they assume any CACFP duty and must train each staff member annually thereafter.

Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

Training must cover the following topics:

- Program Meal Pattern
- Meal Counts
- Claims Submission
- Claims Review Procedures
- Recordkeeping Requirements
- Reimbursement System
- Civil Rights

Training for each staff member can be specific to their CACFP duties or can include all topics as listed above. Training must be documented as indicated below.

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4223 Physical Activity and Limiting the Use of Electronic Media

Educating staff, sites, parents, and children on the importance of physical activity and limiting the use of electronic media can contribute to the wellness, healthy growth, and development of young children.

USDA has provided informational materials related to physical activity and limiting electronic media use as well as others which are free to CEs and sites and can be downloaded and printed for use in trainings and other settings. To obtain these materials visit the USDA website at:

http://healthymeals.nal.usda.gov/cacfp-wellness-resources-child-care-providers

CEs and sites are encouraged to use these free resources before developing or purchasing others. However, under certain circumstances, CEs and sites may be able to develop and distribute their own materials related to physical activity and limiting electronic media use and use CACFP funds to pay for those materials.

CEs and sites must ensure:

- The materials (e.g., training curricula, toolkits, newsletters, pamphlets, etc.) emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media; and
- Costs for these materials are reasonable, necessary, and allocable as to their content in relationship to CACFP requirements.

Reference Item 7400, *Nonprofit Food Service* and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* for further information.

4224 Training Documentation

CEs must maintain documentation of all training sessions that include the following:

- Date of training,
- Location of training,
- Training topics,
- Names of participants, and
- Written or electronic signature of the participants.

When a site completes a required training course, the sponsor must present the site with written documentation acknowledging their completion of the training.

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The documentation must include the:

- Name of the site.
- Title of the training.
- Date that the training was completed.
- Name of the sponsoring organization.
- Name of the trainer who provided the training.
- Written or electronic signature of an authorized representative of the sponsoring organization.

NOTE: TDA materials are produced using federal funds for TDA-sponsored training events and as a tool for attendees to reference and use for training their own staff. No part of TDA's publications may be reproduced in any form or by any means for profit or for any purpose other than use in USDA FNS programs. TDA cannot guarantee that non-TDA sponsored Program training will contain current or correct information. CEs should contact TDA if there are any questions about information received during training.

4230 Sponsoring Organizations – Management and Monitoring

A sponsor is responsible for the management and monitoring of the sites that it sponsors. These responsibilities include:

- Making pre-approval visits.
- Adding, submitting changes for, and terminating sites.
- Ensuring sites maintain a current license/certification/health and safety documents.
- Conducting training.
- Conducting reviews.
- Providing technical assistance.
- Disbursing payments to sites.
- Ensuring sites submitted for participation are not disqualified from participation in any Child Nutrition Program, as well as ensuring site staff in principal positions or performing CACFP functions are not disqualified (see Section 1000, *Introduction* for a list of other Programs).

4231 Adding, Terminating, or Making Changes to Sites

Sponsors must inform sites that are not part of their same legal entity that they may apply directly to TDA for participation in the CACFP as an independent CE.

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CEs must submit all information and documentation to TDA by the last day of the month for the request to be effective for that same month. In some cases, TDA may be able to approve participation or changes to participation with an effective date in the month prior to submission.

If the information and/or documentation submitted by the CE is incorrect or incomplete, TDA will return the incomplete information and request incomplete documentation before approval. Submitting incomplete or incorrect information or documentation could result in the effective date being a month or months **after** the initial submission, so TDA recommends requests are submitted as early in the month as possible to allow for corrections to be made during the same month.

REMINDERS:

- Sites and site staff disqualified or excluded from participation in a Child Nutrition Program may not participate in the CACFP.
- Sites that lose their license/certification may not be claimed or participate in the CACFP. It is the sponsor's responsibility to ensure each site is licensed before submitting an application for participation or a claim each month.

4231.1 Adding a Site

Pre-Approval Visit

Before a sponsor enrolls a site, the sponsor must make a pre-approval visit to the site.

EXCEPTIONS: A CE that is a school is not required to conduct a pre-approval visit to its school sites that are currently participating in the NSLP and a currently participating SFSP sponsor in good standing does not have to conduct a pre-approval visit to its sites that are currently participating in the SFSP.

During the visit, the sponsor must discuss Program benefits and requirements and determine whether the site can provide food service in accordance with CACFP requirements.

A sponsor must use TDA's *Pre-Approval Visit* (H1606-AT-P) form, or alternate, to document pre-approval visits.

The sponsor must inform each unaffiliated site that it can apply directly to TDA for participation in the CACFP as an independent CE.

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After conducting the pre-approval visit, a sponsor may complete the site application and the budget detail in TX-UNPS and mail, fax or email the remaining required documentation to TDA.

The following information must be submitted:

- *Sponsoring Organization Monitoring Staff Information* (in TX-UNPS) (applies to sponsors of 25 or more sites, including sites being added);
- *Contracting Entity Budget* (in TX-UNPS) amending the sponsor's budget as the addition of sites will increase the budget;
- *Site Application* (in TX-UNPS) for each site;
- Documentation of area eligibility;
- Documentation of educational or enrichment program; and
- A copy of the site's license/certification to provide day care services, **or** exemption from licensing; and
- If exempt from licensing, documentation of compliance with health and safety requirements.

NOTE: A site cannot be approved if it does not meet the licensing and/or health and safety requirements.

The sponsor must also obtain from an unaffiliated site, and maintain in the site's file, a copy of the following:

- Articles of Incorporation, Assumed Name Certificate or Certificate of Formation;
- IRS 501(c)(3) tax-exemption (if applicable);
- Organizational chart; and,
- Governing Body Awareness.

Sponsors must maintain on file a copy of the original *Site Application* from TX-UNPS and the *Permanent Agreement Between Contracting Organization and Child Care Site*, for each site they sponsor and will enter the dates of signature for both the sponsor representative and site representative from the agreement on the site application (applies to unaffiliated sites only). Sponsors must provide each site a copy of the original site application and *Permanent Agreement Between Contracting Organization and Child Care Site*.

TDA has two types of *Permanent Agreement Between Contracting Organization and Child Care Site*.

- *Permanent Agreement Between Contracting Organization and Child Care Site* - applies to the traditional sponsor/site relationship in which the sponsor passes through funds to the site for operation of the nonprofit food service.

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- *Permanent Agreement Between Contracting Organization and Child Care Site – Sponsor provides Meals and Snacks* - applies to sponsors that also serve as the meal service vendor and conducts the nonprofit food service for the site and retain 100% of the meal reimbursement.

The sponsor must ensure it has executed the proper agreement with the site before submitting the site for approval.

These documents must be provided, upon request, to TDA. In addition, the completeness and accuracy of these documents will be evaluated during administrative and site reviews.

TDA will not approve a site's participation, and sponsors may not claim reimbursement for meals served at a site, before the latest of the following dates:

- Effective date of the site's license;
- Date of the pre-approval visit;
- Beginning effective date on the *Permanent Agreement Between Contracting Organization and Child Care Site* (unaffiliated sites);
- Latest date that the *Permanent Agreement Between Contracting Organization and Child Care Site* (applies to unaffiliated sites only) is signed by the site or CE; or
- Date of participation that TDA assigns.

Example: The beginning effective date on the *Permanent Agreement Between Contracting Organization and Child Care Site* is February 21, 2018; the site's license is effective March 1, 2018, the pre-approval visit was conducted March 10, 2018. The earliest the site could begin claiming would be March 10, 2018, the date of the pre-approval visit.

NOTES:

- Reference handbook Item 2241, *Licensing,* for exemptions from licensing requirements.
- Submitting additions, terminations and changes via paper may delay the approval process. TDA highly recommends CEs use TX-UNPS.

4231.2 Documentation of Area Eligibility

At-risk afterschool care center sites must be located in the attendance area of a public school (elementary, middle, or high school) where at least 50 percent of the students are eligible for free or reduced price meals. **NOTE:** CEs may not round up a percentage. A percentage such as 49.94 cannot be rounded up and would not qualify the site as area-eligible.

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CEs must use the free and reduced-price percentages provided on the current school data list when determining eligibility. If no school in the attendance area in which the site is located meets the 50 percent or greater percentage, the site cannot be qualified as area eligible.

EXCEPTION: If a CE can obtain from the school in the attendance area in which the site is located documentation for a more recent month that demonstrates that the school meets the 50 percent or greater percentage, that documentation may be submitted to qualify the site as area eligible.

CEs must verify with the school, by written or verbal verification, that the site is located in the school's attendance area. CEs must also verify with the school, by written or verbal verification, that the school in whose attendance area the site is located draws their attendance from a specific neighborhood.

EXCEPTION: Some rural areas or small towns will have a single school that serves the entire town or Independent School District (ISD). In this case, it is acceptable for the "specific neighborhood" from which the school draws attendance to be the entire town or ISD.

Written documentation may include a map with school boundaries, a letter confirming school boundaries, etc. Verbal documentation may include a telephone conversation with an ISD official knowledgeable in school boundaries.

NOTE: CEs may not use data for magnet schools, charter schools, or alternate schools that serve the entire ISD, in determining a site's eligibility. **EXCEPTION:** sites located **in** magnet schools, charter schools, or alternate schools may use that schools free and reduced price enrollment data to determine area eligibility.

CEs must verify, by written or verbal verification from the ISD, that the school in whose attendance area the site is located does not target their attendance to children with special needs. Schools such as alternate schools and schools that primarily or only serve children with disabilities, etc., may not be used.

CEs must retain documentation of all school data used in its determination. Documentation includes, but is not limited to, the list of schools, copies of all written information that you receive from school officials (i.e., maps of school boundaries, letters confirming school boundaries, etc.), and written documentation of all verbal information received from school officials.

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Documentation of verbal contacts with school officials must include:

- The name of the school being used for the area eligibility determination and the district in which the school is located;
- The name of the school official who was contacted;
- The date the school official was contacted;
- The phone number for the school official contacted; and
- The specific information you were given by the school official.

Failure to retain the required documentation could result in denial of a site's eligibility and adverse action against the CE.

NOTES:

- SFAs do not have to submit the above documentation for school sites.
- Currently participating SFSP sponsors do not have to submit documentation of area eligibility for sites currently participating in the SFSP unless the sponsor used census data to establish area eligibility.

4231.3 Terminating a Site

To terminate (close) a site, sponsors may complete the process in TX-UNPS and mail, fax or email any required documentation to TDA.

The following information must be submitted:

- *Sponsoring Organization Monitoring Staff Information* (in TX-UNPS) (applies to sponsors of 25 or more sites, this is not needed if the termination of sites decreases your sponsorship to below 25); and
- *Contracting Entity Budget* (in TX-UNPS) amending the sponsor's budget as the termination of sites will decrease the budget.

4231.4 Making Changes to a Site

To make a change to a site (such as changing meal times), independent CEs, and sponsors may complete the site application in TX-UNPS and mail, fax or email the remaining required documentation to TDA.

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The following information must be submitted:

- *Site Application* (in TX-UNPS); and
- Any additional documentation needed dependent on the change. For example, if the change is an address change, you must submit a copy of the new license that reflects the address change and proves the site is licensed to operate at that location or if exempt, documentation of compliance with health and safety requirements.

NOTE:

- A site cannot be approved if it does not meet the licensing and/or health and safety requirements.
- Submitting additions, terminations and changes via paper may delay the approval process. TDA highly recommends CEs use TX-UNPS.

Sponsors do not have to obtain the unaffiliated sites' signatures on the site application for changes the sponsor makes on behalf of the site; however, the sponsor must provide the site a copy of the site application with the changes indicated and maintain a copy on file. The sponsor can print the site application from TX-UNPS to accomplish this, or if completed via paper, mail the paper copy to the site. TDA will verify compliance with this requirement.

4232 Denials

A site's participation will be denied if:

- The site is already participating with another sponsor.
- The site requested a good cause transfer, but the transfer approval letter from TDA is not submitted with the application.
- The site, responsible principal(s) and/or responsible individual(s) has been declared seriously deficient and is on the National Disqualified List (NDL) or Texas Excluded SFSP List (TEXSL).
- The site is currently participating in the Program with a sponsor and signs the site application or *Permanent Agreement Between Contracting Organization and Child Care Site* prior to June 1 or after July 31.
- The site signed the site application and *Permanent Agreement Between Contracting Organization and Child Care Site* with multiple sponsors between June 1 and July 31. The sponsor whose *Permanent Agreement Between Contracting Organization and Child Care Site* shows the earliest sign date of both the site and the sponsor representative has the legally binding application and agreement.
- A copy of the site's license or alternate documentation, if applicable, was not submitted.
- The site is otherwise ineligible to participate.

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4233 Resuming Site Participation

A sponsored site whose *Permanent Agreement Between Contracting Organization and Child Care Site* has been terminated by mutual consent that wants to resume its participation in the same Program Year must participate with the same sponsor, unless:

- The site has "good cause" for a transfer and TDA approves the site to transfer to another sponsor. Reference Item 4225, *Transfers*, for more information.
- The site signs a *Permanent Agreement Between Contracting Organization and Child Care Site* for the next Program Year during the open enrollment period (June 1 through July 31 of each Program Year).
- The site applies to participate directly with TDA.

Sponsors must ensure a resuming site is eligible to participate and submit the same items as required in Item 4220, *Adding, Terminating, or Making Changes to Sites*, to resume a site's participation.

4234 Open Enrollment

Sites that are at-risk afterschool care centers ONLY (do not participate in any other component of the CACFP) may select a new sponsor, without prior approval from TDA, between June 1 and July 31 of each Program Year. *Permanent Agreement Between Contracting Organization and Child Care Site* signed during the open enrollment period are effective August 1 of the same Program Year.

Sites that are traditional child care centers or emergency shelters that also participate in the at-risk afterschool care component may select a new sponsor, without prior approval from TDA, between June 1 and September 30 of each Program Year. *Permanent Agreement Between Contracting Organization and Child Care Site* signed during the open enrollment period are effective October 1 of the following Program Year.

A new site can sign a *Permanent Agreement Between Contracting Organization and Child Care Site* with a sponsor at any time during the Program Year. If the *Permanent Agreement Between Contracting Organization and Child Care Site* is signed between the applicable open enrollment period above, the new site may choose another sponsor before the end of the applicable open enrollment period.

If a site signs a site application and *Permanent Agreement Between Contracting Organization and Child Care Site* with more than one sponsor during open enrollment, the *Permanent Agreement Between Contracting Organization and Child Care Site* that was signed earliest by both the sponsor representative and the site is legally binding.

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Sponsors may not obtain a newly signed *Permanent Agreement Between Contracting Organization and Child Care Site* during the open enrollment period from existing sites in an attempt to prevent the sites from transferring to another sponsor during open enrollment. A newly signed *Permanent Agreement Between Contracting Organization and Child Care Site* signed by a Sponsor and its existing site will not be considered as "signed earliest by both the sponsor representative and the site" if the site signs with another sponsor during the open enrollment period.

Once a site has selected a sponsor, the site may not transfer to another sponsor without prior approval from TDA.

NOTE: A site may terminate its *Permanent Agreement Between Contracting Organization and Child Care Site* with the sponsor and apply to participate directly with TDA at any time during the year.

4235 Transfers

Prior to open enrollment, sponsors may not recruit nor enter into a *Permanent Agreement Between Contracting Organization and Child Care Site* for the next Program Year with sites that are currently participating or had participated with a sponsor in the CACFP in the current Program Year.

Sites that can demonstrate good cause for transferring from a sponsor may, with prior approval from TDA, enter into a *Permanent Agreement Between Contracting Organization and Child Care Site* with another sponsor at any time during the Program Year.

If a site wants to transfer to another sponsor, the site must:

- Request in writing, and receive, prior approval for the transfer from TDA.
- Demonstrate good cause for the transfer request.
- Submit a letter to its current sponsor stating the intention to terminate their agreement and the effective date of termination.

"Good cause" for transferring from the sponsorship of one sponsor to another during the Program Year is limited to the following conditions:

- A sponsor denies a site access to the Program.
- A sponsor reduces the level of benefit a site receives under the Program, for example, the sponsor:
  - Will not allow sites to claim suppers or weekend meals because the sponsor does not want to monitor those meal services.

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    - Requests and receives approval to withhold more than 15% of the meal reimbursement annually for allowable administrative costs thereby reducing the reimbursement received by the site.
- Any other good cause as determined by TDA.

It is the site's responsibility to demonstrate that such conditions exist.

EXAMPLE: A site moved to an area where the current sponsor does not provide service.
When approving a transfer based on good cause, TDA will specify the earliest dates on which a new *Permanent Agreement Between Contracting Organization and Child Care Site* may be signed or become effective. Transfers may be approved any time throughout the Program Year when there is good cause. The approval granted by TDA to transfer is only effective one time. A site may not use the same transfer letter to transfer between multiple sponsors.

Sponsors must submit the approval to transfer letter with all other required documentation when adding a site.

Occasionally, a sponsor will cease participation in the CACFP prior to the end of the Program Year. When this happens, TDA notifies the sites that they are approved to transfer to another sponsor. No sponsor may execute an agreement with a site that has been approved for transfer prior to the date in the notification.

Sponsors adding a site that was previously under the sponsorship of a sponsor that terminated during the same Program Year must submit the termination letter/approval to transfer letter with all other required documentation when adding the site.

Any costs sponsors incur while recruiting a current or former sponsor's sites, prior to June 1 or prior to the date that TDA has approved a site's transfer, are unallowable. At a minimum, sponsors records must include:

- Itemized accounts, including the source of non-Program revenue, of recruiting costs.
- The first date of contact with the site.

Failure to properly request a transfer may delay the processing of your claim or result in a reduced reimbursement.

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4236 Training and Education

Proper training is an important element in ensuring compliance with Program requirements and minimizing disallowances, unallowable costs and termination of Program participation. Sponsors are required to provide and attend training, as follows:

- New site staff must receive training **prior** to the site's participation in the Program and annually thereafter.
- New site staff who performs key CACFP activities must receive training **prior** to beginning those activities.
- Participating site staff must attend training annually.
- A new employee of the sponsoring organization (SO) who performs key CACFP activities must receive training **prior** to beginning those activities.
- A current employee of the SO must receive training annually.

Sponsors must plan trainings that are appropriate to the experience level and duties of the sponsor's and site's staff. Experienced and inexperienced staff should not get the same training year after year; however, repetition of some information may be necessary to ensure continued Program compliance.

Although all topics must be included in the annual training, a sponsor may provide more information on some topic than others. A sponsor's training should always address areas in which deficiencies have been identified.

There is no requirement for the amount of time spent on training. Therefore, a sponsor may only need a short review on some topics, while other topics require a longer period of time.

Training may be conducted in a variety of ways to meet the needs of the sponsor and sites staff. Sponsors may use classroom style, on-site, distance learning (with the exceptions listed below), or other innovative training techniques, provided the training is properly documented and the training accomplishes the regulatory requirements for training content and frequency.

However, sponsors may **not** fulfill the training requirements by providing a training video and requiring staff to certify that they watched it. Training on video, web-based training, and/or other independent learning approaches are only permitted to fulfill the requirement if there are means to verify that each trainee has actually received the training, i.e., pre- and post-tests, activities, exercises, etc. Sponsors may use electronic signatures to verify that sponsor and site staff has completed electronic training.

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4236.1 New Site and Sponsor Staff

The sponsor, its staff and new site staff who perform key CACFP activities must participate in or receive training in the following areas and subtopics:

- Program Meal Pattern
  - Child meal pattern
  - Serving sizes for age groups
  - Creditable foods
  - Meal service styles
  - Accommodating special needs diets
  - Menu planning
- Meal Counts
  - Daily (point of service)
  - Weekly
  - Monthly
- Claims Submission
  - Due date
  - Late claims
  - Adjusted claims
- Claims Review Procedures
  - Review elements
  - Adverse Action
  - Appeal rights
- Recordkeeping Requirements
  - Daily, weekly, monthly forms
  - Meal production records
  - Attendance records
  - Financial records
  - Record retention
- Purchase meals (FSMC/Vendor)
- Reimbursement System
  - Claiming percentage
  - Administrative fee
  - Payment schedule
- Civil Rights

TDA provides Civil Rights training materials on the TDA website at http://www.squaremeals.org, click on F&N Resources, then "Training," select "Online Education and Self Study", and finally choose the English or Spanish course.

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TDA may require sponsors to attend additional training during the program year. Sponsors will be notified if and when mandatory training is scheduled.

Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

4236.2 Participating Sites and Current Sponsor Staff

After a sponsor's first program-year of participation, the sponsor, its staff, and site staff that perform key CACFP activities must participate in or receive training annually in the same areas and subtopics as listed in 4346.1.

TDA may also require sponsors to attend additional training during the program year. Sponsors will be notified when mandatory training is scheduled.

During the program year staff may change. New sponsor and site staff are required to be trained on the areas and subtopics. It is the sponsor's responsibility to ensure new employees who will be performing key activities receive training prior to beginning these CACFP functions.

The sponsor can develop a method to ensure this training is performed and compliance with the requirement for the staff member to participate is met. This can include the sponsor providing the training as needed and/or developing a training plan with the site for a trained site employee to provide the training. All documentation requirements apply in either situation.

The sponsor is responsible for verifying compliance with the training requirements during their review of the site, if the site personnel provided the training.

4236.3 Physical Activity and Limiting the Use of Electronic Media

Educating staff, sites, parents, and children on the importance of physical activity and limiting the use of electronic media can contribute to the wellness, healthy growth and development of young children.

Educating staff, sites, and participants in proper nutrition, physical activity and healthy lifestyles (including limiting the use of electronic media) is also an important part of the Program purpose.

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Although promoting physical activity and limiting the use of electronic media is not required, CEs and sites are encouraged to devote time to educating participants. The cost of these efforts can be an allowable expense and is further described in Item 4333, *Physical Activity and Limiting the Use of Electronic Media* and in Item 7400, *Nonprofit Food Service* and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program for further information*.

USDA has provided informational materials related to physical activity and limiting electronic media use as well as others which are free to CEs and sites and can be downloaded and printed for use in trainings and other settings. To obtain these materials visit the USDA website at:

http://healthymeals.nal.usda.gov/cacfp-wellness-resources-child-care-providers

CEs and sites are encouraged to use these free resources before developing or purchasing others. However, under certain circumstances, CEs and sites may be able to develop and distribute their own materials related to physical activity and limiting electronic media use and use CACFP funds to pay for those materials.

CEs and sites must ensure:

- The materials (e.g., training curricula, toolkits, newsletters, pamphlets, etc.) emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media; and
- Costs for these materials are reasonable, necessary, and allocable as to their content in relationship to Program requirements.

Reference Item 7400, *Nonprofit Food Service* and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* for further information.

4236.4 Training Documentation

CEs must maintain documentation of all training sessions that include the following:

- Date of training,
- Location of training,
- Training topics,
- Names of participants, and
- Written or electronic signature of the participants.

When a site completes a required training course, the sponsor must present the site with written documentation acknowledging their completion of the training.

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The documentation must include the:

- Name of the site.
- Title of the training.
- Date that the training was completed.
- Name of the sponsoring organization.
- Name of the trainer who provided the training.
- Written or electronic signature of an authorized representative of the sponsoring organization.

NOTE: TDA materials are produced using federal funds for TDA-sponsored training events and as a tool for attendees to reference and use for training their own staff. No part of TDA's publications may be reproduced in any form or by any means for profit or for any purpose other than use in USDA FNS programs.

TDA cannot guarantee that non-TDA sponsored program training will contain current or correct information. CEs should contact TDA if there are any questions about information received during training.

4237 Reviews

Sponsors must conduct reviews of each of their sites to determine compliance with all Program requirements.

Sponsors must use TDA's *Review* (H1606-AT) form, or alternate, during each visit.

All questions on the *Review* (H1606-AT) form are considered critical. However, each entry on the *Review* (H1606-AT) form, in and of itself, does not ensure that an organization fulfills its fundamental management responsibilities. Some entries are essential to ensuring that the Program's intent is being met with integrity.

Other entries denote that technical federal and state requirements are being met. Sponsors must ensure the form is completed in its entirety.

Sponsors that fail to complete all elements on the *Review* (H1606-AT) form will be subject to serious deficiency.

Sites participating in the CACFP are subject to unannounced as well as announced reviews by the sponsor, TDA, USDA or other State or Federal officials.

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Sponsors must notify each site that:

- It will be reviewed on an announced or unannounced basis;
- Announced and unannounced reviews will be made during the site's normal hours of operations, including evenings and weekends if applicable;
- Monitors conducting announced and unannounced reviews will have photo identification that is current and must clearly identify the individual by name and the name of the sponsoring organization; and
- State or Federal officials that visit the site will carry photo identification that identifies them by name and agency.

A Texas Driver's License or Texas ID card is not sufficient to meet the photo identification requirement because it does not identify the individual as an employee of the sponsoring organization. State or Federal officials that visit the site will carry photo identification that identifies them by name and agency.

Sponsors are required to review each of their sites:

- At least three times per year (based on the 12-month review period of each site) unless the sponsor is averaging reviews.
- Once within the first four weeks of Program operations with the sponsor.
- At least once every six months (unless the sponsor is averaging reviews).

EXCEPTIONS:

- A School Food Authority (SFA) participating in only the at-risk component of CACFP may align its at-risk review with its required NSLP review.
- A Summer Food Service Program (SFSP) sponsor may follow the CACFP review requirements (this must be documented in its management plan), and must ensure that it:
  - Conducts three visits;
  - Once within the first four weeks of operations;
  - At least once every six months; **AND**
    - One review occurs during the summer, includes a review of SFSP requirements, includes a meal observation and be unannounced;
    - Two reviews occur during the school year, includes a review of CACFP requirements, includes a meal service observation and one be unannounced.

NOTE: See Item 4237.1, *Review Averaging*, for procedures and requirements for review averaging.

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Two of the reviews conducted must be unannounced (unscheduled); the third review may be announced or unannounced at the sponsor's discretion, during each site's 12-month review period.

Prior to conducting an announced review, sponsors must notify the sites in writing.
When planning unannounced reviews sponsors must ensure that the planning of the reviews does not allow for the unannounced review of a specific site to be conducted at the same time each year. For example, reviews that always occur during the third week of any given month, or never occur during the first week of a month when claims are being processed.

Unannounced reviews are designed to help sponsors ensure sites are operating the Program in accordance with regulations and policies, and unannounced reviews that are always scheduled at the same time, therefore are known to be expected by a site, are less likely to uncover management deficiencies and Program abuse, and undermine the intent of unannounced reviews.

A sponsor must observe an entire meal service at each required review. The duration of the meal service is designated on the *Site Application* (beginning and ending times). Only one review during the site's 12-month review period may include the observation of a snack rather than a meal. If a site participates on Saturday or Sunday, the sponsor must attempt to conduct at least one of the reviews on a Saturday or Sunday.

NOTE: If the monitor has observed *at least* the average number of children normally claimed by the site receive a meal during the meal service being reviewed; the monitor does not have to remain for the entire meal service.

A sponsor must provide oversight of all types of meal services being claimed by its sites. In order to provide adequate oversight, the sponsor must review all meal service types being claimed by all of their sites, including weekend meals. Reviewing all meal service types does not require a sponsor to annually conduct reviews of all meal services being claimed at each site. As long as, in the total of all reviews conducted, the sponsor provides oversight of all meal service types being claimed, the sponsor has met its responsibility. Meal service types include: breakfast, at-risk breakfast, lunch, at-risk lunch, supper, at-risk supper, snacks (am/pm/eve/at-risk) and/or weekend meals.

Sponsors may not observe the same meal service type at all reviews conducted for the same site.
EXCEPTION: If a site only serves one meal type, each review must include the observation of that meal service.

The following is a recommendation and not a requirement when reviewing meal service:
The number of breakfast, lunch, or supper reviews should be roughly the same percentage as the percentage of breakfast, lunch, or suppers claimed for reimbursement.

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EXAMPLE: If 20% of the meals claimed by the sites are suppers, then 20% of the sponsor's effort should be devoted to reviewing suppers.
The sponsor must keep records of the locations, dates, times, and findings for each review. The sponsor is responsible for using the reviews as an opportunity for training the site. If problems are identified during a review, the sponsor must require corrective action to ensure that the problems are corrected. TDA expects reviews of sites that are experiencing difficulty operating the Program to exceed the minimum number and frequency.

4237.1 Review Averaging

Sponsors may choose to average their reviews as a means to better utilize resources, by conducting only two unannounced reviews of sites with few or no Program non-compliances or findings at the last 2-3 reviews, three reviews for the bulk of their sites, and four reviews per year of those sites that need closer oversight and technical assistance.

Sponsors are not required to obtain prior approval from TDA to implement review averaging. However, sponsors are responsible for informing TDA of their intent to utilize the option and to provide a description of their implementation plan.

If a sponsor decides to implement or to stop averaging during renewal application processing, or during the Program Year, they must submit a revised *Contracting Entity Management Plan* to TDA via TX-UNPS. If the request is to begin using review averaging, the sponsor must also submit their implementation plan.

A sponsor's plan must include the criteria it will use to determine which sites will receive two, three, or four reviews, and review procedures for its organization. TDA will evaluate and approve the plan to ensure that all reviews will be conducted and performed according to Program regulations.

Regardless of the sponsor's review schedule, TDA will review and monitor the sponsor's operation for compliance to determine if reviews are being conducted as required.
NOTE: If a sponsor conducts one unannounced review of a site and finds no serious deficiencies the sponsor may choose not to conduct a third review of the site that year and may make the second review announced or unannounced at its discretion. However, the sponsor must ensure that it conducts an average of three reviews of all its sites in the year, and that it conducts an average of two unannounced reviews of all its sites that year. If a sponsor uses this provision, and a site or sites receive only two reviews in one year, it must ensure that the first review of the site(s) in the next review year occur no more than 9 months after the previous review.

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Review Averaging Exceptions

Sponsors that average their reviews must include the review requirements found in Item 4237, *Reviews* with the following exceptions:

1. There can be no more than 9 months between reviews if a site is receiving two reviews.

2. The minimum number of reviews a site may receive is two per year.

3. A site that has a serious finding during the review year must receive at least three reviews.

How to Establish the Averaging Cycle

In order to implement the review averaging option successfully, the sponsor's review cycle must correspond with the CACFP Program Year (PY) (October 1 – September 30). If the sponsor has been conducting reviews on a schedule other than the CACFP PY (for example, sites approved participation date, calendar year, etc.), the new review averaging cycle must have a beginning date of October 1 for all participating sites.

Step 1. Calculate the number of total reviews that must be conducted.

Number of participating sites as of October 1 multiplied by 3 equals the total number of required reviews over the entire PY.

EXAMPLE: 5 sites x 3 = 15 total number of required reviews that must be conducted during the PY (October 1 – September 30).

Step 2. Construct a profile to determine which sites need more or fewer reviews.

The following is an example of how a sponsor may determine which sites would require more frequent review and which would require less frequent review.

Sites that need only two reviews:

- Sites that had no findings on their last 2-3 reviews.
- Sites that have participated for several years that have only minor findings on their last review.

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Sites that need three reviews:

- New sites that have previously participated with another sponsor.
- Sites that had findings on their last 2 reviews.
- Sites that are doing well, but need additional technical assistance in a particular area.

Sites that need four reviews:

- New sites that have never participated in the CACFP.
- Sites that had serious findings on their last review, and/or a principal or individual of the site were in the serious deficiency process.
- Sites that are having difficulties.
- Sites that have a combination of the above.

Fluctuations due to adding and terminating sites will affect the sponsor's review averaging plan. To help manage the total number of required reviews the sponsor must perform, a separate averaging plan may be beneficial for new participating sites added during the PY.

New sites added during a PY will then be added to the total reviews for the following PY.

For New Sites Beginning within a Program Year	
Site Beginning Participation Date	Minimum Number of Reviews in PY
October 1-December 30	3
January 1-March 31	3
April 1-June 30	2
July 1-September 30	1

EXAMPLE: If a new site begins participation on December 3, three reviews must be conducted for the PY. If a new site begins participation on May 2, two reviews are required.

Step 3. Determine exactly how many sites will get two, three, or four reviews.

In order to get the total number of reviews required, the sponsor will need to have the same number of sites receiving two reviews as receive four reviews.

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EXAMPLE: If 300 reviews are required, a sponsor's schedule might have:

- 10 sites receiving 2 reviews.
- 80 sites receiving 3 reviews.
- 10 sites receiving 4 reviews.

Step 4. Develop a plan to track reviews.

Tracking reviews shows the timing of reviews for each site throughout the year, and identifies which reviews will be announced and unannounced.

A sponsor's tracking plan should keep a running tally, by month and by year-to-date, of:

- The number of reviews conducted.
- The number of unannounced reviews conducted.
- The number of announced reviews conducted.

Step 5. Frontload reviews.

Conducting a majority of the reviews early in the PY ("frontloading") allows for more flexibility if circumstances occur later in the year that forces a revision to the review averaging plan.

Step 6. Revise the schedule.

The sponsor's review averaging plan will need to be reassessed periodically. The more sites the sponsor has, the more times the schedule will need to be assessed.

Anticipate changes such as:

- The number of participating sites changes due to new, terminated, or temporarily inactive sites.
- One or more monitors leave the position.
- Bad weather prohibits the review.
- The monitor has car problems and all reviews for the day cannot be conducted.

Averaging will work differently for each organization, depending on how the site profile is developed, the organization is structured, and other factors. Sponsors that implement review averaging should remember it is a tool to use to focus more technical assistance and oversight on problematic and new sites.

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4237.2 Meal Counts and Attendance

Documented daily attendance must be maintained. The daily attendance is not the same as the meal count and the two must be indicated separately. The attendance must be compared to the meal count to determine if any discrepancies exist. For example, the site could have an attendance that is larger than the meal count but should not have a meal count that is greater than the number of infants or children in attendance.

NOTE: An unanticipated fluctuation in participation resulting in the service and claiming of second meals would be the only reasonable explanation for meal counts to exceed attendance. Claiming second meals requires prior approval. Refer to Item 4172, *Second Meals During One Meal Service*, for additional information.

Sponsors' Action: Sponsors must require corrective action and disallow any meals claimed in excess of attendance unless the site has requested approval for second meals and the CE has obtained that approval from TDA. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
    - Meal counts and attendance will be documented and reported accurately
    - Meals will only be claimed for those children/infants who are documented in attendance

  The process/procedure must include:
    - Who will be responsible for each/task/function/step in the procedure (by position/title)
    - The date the process/procedure was or will be implemented
    - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
    - Oversight measures to ensure the noncompliance will not occur again
- Submit:
    - The process/procedure developed
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

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4237.3 Meal Service

Review of the meal service encompasses a wide range including compliance with the meal pattern requirements, meal service times, and documentation.

Meal pattern

To determine a site's compliance with the meal pattern requirements a sponsor must review documentation including, but not limited to:

- Meal production records
- Documentation of food purchases
    - Invoices
    - Receipts
    - Vendor receipts/records
- Donation logs
- Leftover/Recycle logs
- CN labels
- Product formulation statements

The sponsor must determine if the site has complied with the required meal components and portion sizes for each meal type, and if the site purchased or acquired enough of each item to support the meals and snacks it claims.

NOTE: If a site was unable to serve the documented meal with the whole grain-rich grain due to extenuating circumstances, such as being forced to close before serving that meal due to severe weather, the sponsor would not have to call a finding and disallow meals on the basis that the whole grain-rich requirement was not met.

To determine compliance with the components and portion sizes the sponsor must perform a meal analysis.

Ensuring compliance with the meal pattern requirements is not only done during a review, but each month when the sites submit documentation for a claim.

Substitutions due to Disabilities or Medical or Special Dietary Needs

Sponsors must also review the meal production records to determine if there have been substitutions due to disabilities and/or medical or special dietary needs. If there are, sponsors must ensure documentation to support the substitutions is on file and that the substitutions have been made correctly. Refer to Items 4113.2, *Children with Disabilities* and 4113.3, *Children with Medical or Special Dietary Needs* for additional information.

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Meal Service Times

Sponsors must ensure sites are serving meals during the meal service times as indicated on the last approved *Site Application*. Meals served outside of the approved meal service times may not be claimed for reimbursement.

Common meal service non-compliances include, but are not limited to:

- Meal production record does not contain all required information to allow the reviewer to determine a credible meal was prepared for each infant/child
- Meal production record contains documentation which indicates the food prepared was not sufficient (measurable amount) to feed the number of infants/children/adult participants claimed for the meal service
- Meal production record contains documentation which indicates not all required food components were prepared for the meal (missing a component such as fruit or vegetable, etc.)
- Meal production records are not available for the month(s)/day(s) being reviewed
- Meal production records do not contain substitutions as appropriate
- Meal being observed does not comply with meal pattern requirements
- Meal being observed is served outside of the approved meal serving times
- Records, such as invoices, receipts, do not support the meals produced and claimed

Sponsors' Action: Sponsors must require corrective action and may disallow any meals that do not meet meal pattern requirements or for which there is not sufficient documentation.

Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
    - Meals claimed meet meal pattern requirements;
    - Meal production records are documented accurately;
    - Meal production records and all records to support the claim (receipts, invoices, recycle logs, etc.) are maintained and available for reviewers;
    - Only meals that comply with the meal pattern requirements will be claimed
    - Meals will be served during the approved meal service times

  The process/procedure must include:
    - Who will be responsible for each/task/function/step in the procedure (by position/title)
    - The date the process/procedure was or will be implemented

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    - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
    - Oversight measures to ensure the noncompliance will not occur again
- Submit:
    - The process/procedure developed
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Adverse action is to be taken as follows:

- Insufficient quantity of food for a specific meal served - claim the number of meals for which sufficient quantities were available. **EXAMPLE:** One hundred children were present during a meal service. The main dish was spaghetti and enough meat was prepared for a total of 95 servings. Assume that all 100 attendees were fed, resulting in insufficient quantities for each of the children, however, allow the site to claim 95 meals.
- Receipts/invoices/other documentation shows insufficient quantity of food/milk was available for the meals claimed - first disallow from the meals with the lowest rate of reimbursement.
- Completely missing one or more of the required components – all meals for that meal service must be disallowed.
- CN label/product formulation statement not maintained/available – disallow meals that contained products which required this documentation.

Sponsors should also provide additional training and technical assistance.

4237.4 Civil Rights

Sponsors must ensure sites are in compliance with civil rights requirements as detailed in Section 6000, *Civil Rights*, of this handbook. Sponsors will use observation, conversation and documentation to make this determination.

Sponsors' action: Sites that are in violation of civil rights requirements must be required to take immediate corrective action as well as develop corrective action to ensure future compliance.

Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
    - **{enter specifics related to noncompliance observed}**

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The process/procedure must include:

- Who will be responsible for each/task/function/step in the procedure (by position/title)
- The date the process/procedure was or will be implemented
- How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
- Oversight measures to ensure the noncompliance will not occur again

- Submit:
  - The process/procedure developed
  - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

4237.5 Record Keeping

Sites must comply with all record keeping requirements specified in this handbook. This includes not only retention, but the manner in which records are maintained and completed.

Sponsors will review the sites records to determine if the records are 1) available according to record retention requirements; 2) completed accurately according to policy and record instructions; and 3) current according to policy and record instructions.

Sponsors' Action: Sponsors must require corrective action, disallow any claims/meals or reduce reimbursement, if applicable, for which there is not sufficient documentation. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - All required documentation will be maintained according to record keeping requirements
  - {enter specifics to the documentation in question, such as eligibility documentation}

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again

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- Submit:
    - The process/procedure developed
    - Corrected/updated documentation (for example, meal production records, meal count and attendance)
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Example of potential adverse action due to record keeping is as follows:

- Meal count and attendance - All meals for days for which meal count and attendance records are missing {enter time period for which records are missing}

Sponsors should also provide additional training and technical assistance.

4237.6 Training

Site staff must receive training prior to beginning key CACFP activities and annually thereafter in all required areas and sub-topics. Sponsors are responsible for ensuring each site's staff are in compliance with the requirement through the review of training documentation, organizational charts, employee records, etc.

Sponsors' Action: Sponsors must require corrective action for any site not in compliance with training requirements. Corrective action should include requiring the site(s) to:

- Provide a description of the circumstances that resulted in the noncompliance
- Develop and implement (step-by-step) processes/procedures to ensure:
    - Staff participate in training prior to beginning key CACFP activities and annually thereafter
    - If applicable, sites ensure sponsors receive updated information on new employees in a timely fashion to be able to ensure the new employees receive training prior to beginning key CACFP activities

  The process/procedure must include:
    - Who will be responsible for each/task/function/step in the procedure (by position/title)
    - The date the process/procedure was or will be implemented
    - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
    - Oversight measures to ensure the noncompliance will not occur again
- Submit copies of the following documents:
    - The process/procedure developed

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Sponsors must also provide training to those sites that have not received the required training.

4337.7 Five-day Reconciliation

During each review sponsors must conduct a reconciliation of meal counts to enrollment and attendance records for five consecutive operating days, including weekends and holidays, during the current and/or prior claiming period. **NOTE:** a comparison of meal counts to licensed capacity is not required as part of the five-day reconciliation process but is a best practice to help identify and resolve problems in the claiming process.

Reconciliation is expected to involve records from the current or previous month, or some combination of days from the current and previous months if the review is conducted early in a month. However, if there are circumstances that warrant the review of a five-day period from an earlier month (for example, the site was closed for vacation or the monitor is trying to establish a pattern), the sponsor may look at the earlier month's records.

The five-day reconciliation is done by comparing enrollment (if available), attendance and meal counts by meal type. Use the information obtained from the meal count, attendance, and enrollment records to complete the five-day reconciliation portion of the *Review* (H1606) form.

To perform the five-day reconciliation, compare the meal counts and attendance records to the five-days chosen during the current and/or prior claiming period to determine the number of children in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded for that day. Based on that comparison, determine whether the meal counts were accurate. If there is a discrepancy between the number of children in attendance on the day of review and prior meal counting patterns, the sponsor must attempt to reconcile the difference and determine whether the establishment of an over claim is necessary.

The monitor will:

- Choose five consecutive operating days from the meal count record.
- For this five-day period, gather records of:
    - Meal counts, and
    - Attendance.
- Identify the number of children in attendance during the five-day period.
- Compare total meal counts to daily attendance to ensure that meal counts for each approved meal type did not exceed the number of children in attendance on any day.

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- Compare total enrollment (if available) to daily attendance to ensure that the number of children in attendance did not exceed the number who were enrolled.
- If meal counts cannot be reconciled with attendance data (and enrollment if available), determine the source of the error and appropriate corrective action.

Sponsors that use automated systems that routinely check all of the critical elements, attendance and meal counts, for the entire claim period may use this as an alternative to the five-day reconciliation. The sponsor would have to demonstrate that the system has the capability to:

- Collect attendance and meal count data;
- Separate attendance or "in and out times" from meal counts; and
- Perform comparisons of attendance and meal counts that would detect potential problems in the claiming process.

The five-day reconciliation may be conducted in the office prior to the review if the monitor has access to all current daily attendance and meal count records for the current or previous month. If this information is available, the monitor could conduct reconciliation in the office prior to arriving at the site, then complete any necessary follow-up work while onsite. The monitor could also conduct a desk review if the comparison of meal counts to attendance and enrollment records, if available is for the purpose of a follow-up review.

Sponsors' Action: Sponsors must require corrective action appropriate to the non-compliance identified during the reconciliation, if applicable and require the site to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - {enter specifics to the non-compliance identified}

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again

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- Submit:
    - The process/procedure developed
    - Corrected/updated documentation, if applicable (for example, meal counts, attendance)
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Adverse Action:

- Meals claimed in excess of attendance must be disallowed.

Sponsors should also provide additional training and technical assistance.

4237.8 Nonprofit Food Service

Meal reimbursement, and the goods and services that reimbursement procures, must be used solely for the operation or improvement of the food service, principally for the benefit of the infants/children enrolled for care.

Sponsors must ensure sites are using the reimbursement received to procure goods and services for the use in the food service. This is done through review of documentation and determined by 1) identifying all nonprofit food service revenues; 2) including only allowable net expenses incurred in the operation or improvement of the nonprofit food service when determining food service cost; 3) deducting allowable net expenses from total nonprofit food service revenue; and 4) verifying that any excess is retained and used solely in the nonprofit food service.

Documentation of nonprofit food service status includes, but is not limited to:

- Cash register tapes, invoices, delivery slips, and receipts
- Receiving reports from vendors signed by authorized staff
- Itemized purchase invoices
- Records showing costs of processing, distributing, transporting, storing, and handling food (if these costs are in addition to the cost on the purchase invoice)
- Credits - if they are not shown on invoices
- Canceled checks or other forms of receipts for payments
- Inventory records (including records of major inventory adjustments)
- Payroll records (such as payroll ledgers, IRS Form W-2, IRS Form 941, and cancelled payroll checks, time distribution reports)
- Records of all income to the program

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- Records of donations to the program, such as food, services, supplies or labor
- Bank statements
- General ledgers

Sponsors' Action: Sponsors must require corrective action if sites fail to operate a nonprofit food service and/or maintain documentation to allow the sponsor to determine compliance with the requirement to operate a nonprofit food service. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure, as applicable:
    - All Program funds will be retained and used solely for the operation or improvement of the nonprofit food service
    - Documentation will be maintained according to requirements outlined in the handbook to allow review of the nonprofit food service status

  The process/procedure must include:
    - Who will be responsible for each/task/function/step in the procedure (by position/title)
    - The date the process/procedure was or will be implemented
    - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
    - Oversight measures to ensure the noncompliance will not occur again
- If applicable, repayment of funds spent improperly back to the sites nonprofit food service from a non-Program source, and a plan to spend those funds on allowable costs
- Submit:
    - The process/procedure developed
    - Corrected/updated documentation (for example, general ledger)
    - If applicable, documentation of the refund of the improperly spent funds to the nonprofit food service and documentation to confirm use of those funds on allowable costs
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

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4238 Meal Edit Checks

Sponsors must use monthly edit checks to review meal counts submitted by each site to ensure the accuracy of the sponsor's monthly claim.

The edit checks will ensure that sites are:

- Reimbursed only for approved meal types.
- Not reimbursed for more meals than they could have served during the claiming period.

Edit checks can reveal problems with sites' meal data that need to be resolved before the sponsor submits their claim to TDA. A failed edit check must always result in further investigation or follow-up by the sponsor.

The edit checks required are:

- Approved Meal Types Edit Check: Compare the meal types claimed to the meal types for which the site has been approved. This basic edit check can detect obvious claiming errors. It ensures, for example, that a site approved to serve a snack only does not attempt to receive reimbursement for suppers.

  FOLLOW-UP ACTION: Sponsors must follow their own procedures for handling invalid documentation submitted by a site. However, all meal types claimed that are not approved must be disallowed. For example, the sponsor could contact the site to determine if a revision should be submitted to change the approved meal types.

  Sponsors *may not* retroactively revise the approved meal types in order to reimburse the site for meals already claimed.

- Maximum Number of Meals Edit Check: Identifies the total reported counts that exceed the maximum number of meals that a site could claim in a month. This maximum number equals the site's total attendance, times the maximum number of approved meals that can be claimed per child (2), times the number of operating days in the claiming period.

  EXAMPLE: If a site attendance is 50 and the site serves supper and a snack for 20 operating days, it can claim a maximum of 1,000 for each meal type, and a maximum of 2,000 total meals; 50 attendance X 2 meal types X 20 operating dates = 2,000 maximum total meals that can be claimed for the month.

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When the sponsor prepares the claim, each site's total meals/snacks reported must be compared with the site's attendance figure for that month. The sponsor must develop a procedure to ensure that it's using the most current information for the claim month to conduct this edit check.

FOLLOW-UP ACTION: If the meals/snacks count reported for reimbursement fails the maximum number of meals edit check, you must follow-up with a more complete review to determine whether the meal count is accurate. If the meal count is incorrect, follow your own procedures for handling inaccurate meal counts.

Although block claim edit checks are not required, sponsors may use it as a tool to determine potential training needs or claiming concerns with a particular site. Block claim edit checks identify data submitted by a site for which the number of meals for one or more meal type submitted for reimbursement is identical for 15 or more consecutive days within a claiming period.

4239 Health and Safety

When conducting a review of a site, the CE must ensure that noted or suspected instances of conduct or conditions that pose an imminent threat to the health or safety of the children in care or the public are reported to the proper authorities. CEs must exercise judgment in making a determination of imminent threat.

CEs should have guidance in place for monitors to respond consistently and fairly to an imminent threat, and a plan to report, manage, and train staff on determining incidents that pose an imminent threat.

Examples of incidents that rise to the level of imminent threat include:

- Lost or missing child;
- Suspected maltreatment of a child;
- Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the day care home;
- Injuries to children requiring medical or dental care;
- Illness or injuries requiring hospitalization or emergency treatment;
- Mental health emergencies;
- Health and safety emergencies involving parents or guardians and visitors to the site;
- Death of a child or staff member (including a death that occurred outside of child care hours that had resulted from serious illness or injury at the site); or
- The presence of a threatening individual who attempts or succeeds in gaining entrance to the site.

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If, during a review, a circumstance such as one of those listed above is suspected or occurs, the monitor must:

- Contact the proper authorities
  - Which authority(ies) to contact (HHSC (formerly DFPS), 911, etc.) will depend on the actual circumstances, CEs should have a procedure/process in place to aide monitors in making this determination
- Stay at the site until the authorities have arrived
  - Staying on-site will depend on the actual circumstances, CEs should have guidelines in the procedures/process to aide monitors in making this determination
- Request assistance from TDA to place the responsible principal(s)/individual(s) in serious deficiency (if it is determined to be an imminent threat to health or safety) following the procedure outlined in Section 10000, *Serious Deficiency*

Caring for Our Children, located at http://cfoc.nrckids.org/ is a resource that provides additional guidance on managing, reporting, and documenting incidents of imminent threat.

4240 Claims for Reimbursement

A CE's claim is its actual participation report submitted for the purpose of receiving reimbursement for costs associated with food service. TDA reimburses claims depending on the availability of funds.

The maximum numbers of meals CEs and sites may claim per child per day are as follows:

At-Risk Afterschool Care Center	**Traditional Child Care Center and At-Risk Afterschool Care Center***	**NSLP/SBP and At-Risk Afterschool Care Center**
One meal and one snack, or two snacks with **prior** approval from TDA	Two meals and one snack, or Two snacks and one meal	NSLP/SBP Breakfast, Lunch, afterschool snack and CACFP supper; or** NSLP/SBP Breakfast and lunch and CACFP snack and supper.**

***CEs and sites must ensure all requirements as outlined in the CACFP Child Care Centers Handbook are met in order for a site to participate in both the traditional and at-risk component of the CACFP.**
****CEs and sites may not serve an afterschool snack through NSLP and then serve the same children an additional snack through CACFP.**

Each meal and snack must be reported individually on the appropriate *Centers Claim for Reimbursement*.

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For-profit CEs or sites must not claim reimbursement for meals or snacks served to children in any month in which less than 25 percent of the children in care (enrolled or licensed, whichever is less) were eligible for free or reduced price meals or were Title XX beneficiaries. Children who only receive at-risk snacks/meals must not be included in this percentage.

CEs and sites may claim reimbursement for:

- Children through age 18 years (19 if the child turns 19 during the school year). Children with disabilities are eligible without regard to age.
- Supper and snack served to children on school days, weekends, and school holidays during a school's regular session.
- Breakfast **only** during school holidays or weekends during the school year.
- Lunch **only** during school holidays or weekends during the school year, **except that** lunch meals may be claimed for those children who only attend school half-day, such as pre-school.

Emergency shelters may claim meals served to children on weekdays and weekends.

Sponsors will complete the *Documentation of Meals Claimed* – At-risk (H1540-AT), or alternate, monthly when preparing their claim for reimbursement and maintain the form(s) with their Program files.

In order to process a CE's claims, TDA must have an approved *Certificate of Authority for External Users* (FND-101), for the CE's staff member submitting the claim via TX-UNPS.

Each authorized representative will receive an email with a user ID and temporary password. Once logged into the system, the user will be prompted to change the password. A user manual is available on-line at http://TXUNPS.TexasAgriculture.gov.

The user manual gives instructions on how to:

- Access/log on to TX-UNPS;
- Submit a claim for reimbursement; and
- Obtain help if they are having trouble with their user ID or password, or with accessing TX-UNPS.

NOTE: The purchase of a computer and Internet Service Provider (ISP) support is considered an allowable operating cost. If a CE uses the automation equipment and ISP for any activity, personal, or business, other than the operation of their nonprofit food service, the CE must prorate the cost. The only allowable cost is the portion used in the operation of the CE's nonprofit food service.

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4241 Filing Claims and Submittal Deadline

CEs submit claims electronically via the Internet, through the Texas Unified Nutrition Programs System (TX-UNPS). TDA will set up a TX-UNPS account for each authorized representative indicated on the *Certificate of Authority for External Users* (FND-101).

Claims must be received no later than the 60th day after the last day of the claim month. Refer to Item 4242, *Late Claims*, for information on claims received after the 60th day.

Once the CE's claim has been successfully submitted, a confirmation number will appear, and the claim status will be "accepted." CEs can print the screen, which contains a confirmation number, to reference when calling to confirm or ask questions about the claim. If the 60th day is on a weekend or Federal holiday, the claim must be postmarked or received no later than midnight on the following workday.

CEs that call to confirm the receipt of their claim or make inquiries about their claim must have the confirmation number available. TDA office hours are 8:00 a.m. to 5:00 p.m. Central Standard Time (CST).

If TX-UNPS is unavailable on the last day of the filing deadline ("the system is down"), CEs may submit a paper claim via fax, mail, or by personal delivery to the TDA office in the Stephen F. Austin Building in Austin. However, the claim must be postmarked or received by TDA before close of business on the 60th day or it will be received as a late claim. CEs must attach a cover letter explaining why they could not submit their claim electronically via TX-UNPS.

If a CE waits until the 60th day to submit a claim electronically and then is unable to access TX-UNPS due to any problem **other than** TX-UNPS being down, the CE must:

- Find an alternate site to access TX-UNPS and submit their claim before the deadline, or
- Submit their claim via the paper process as a late claim. See Item 4242, *Late Claims* for information on the processing of late claims.

NOTES:

- CEs should not mail their claim if they fax it or submit it electronically.
- It may take up to 45 days to process valid claims, no matter the method of submittal.

TDA recommends that CEs always have a back-up person designated to submit claims. Doing so could lessen the chance of submitting a late claim that may be denied for payment. If a CE receives advance payments, it should submit the claim as early as possible after the end of the claim month, as a delay in submitting the claim could affect receipt of advance payments.

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When submitting a claim for reimbursement the CE certifies that the claim is accurate and documentation is on file to support that claim. A CE that submits an inaccurate claim may be required to repay funds and will be required to submit corrective action.

Inaccurate claims include:

- Over claiming –
  - claiming more meals than were actually served
  - claiming meals that did not meet meal pattern requirements
  - claiming meals for ineligible children
- Under claiming –
  - claiming fewer meals than were served

4242 Late Claims

Claims postmarked or received by TDA later than 60 days after the last day of the claim month (i.e. late claim) will be processed in the following manner:

Corrective Action Plan (CAP)

The submission of a late claim is a Program noncompliance; therefore, CEs must submit an approvable CAP that includes the:

- Reason for submitting a late claim;
- Actions to be taken to avoid repetition of the situation linked to the late claim submission;
- Actions to be taken to avoid any future late claim submission from the same or other causes; and
- Signature of an Authorized Representative designated to act on the organization's behalf per the *Certificate of Authority for External Users* (FND-101).

Once a CE has submitted an approvable CAP, TDA will determine if it is eligible for the one-time exception payment provision.

NOTE: TDA will accept as proof of submission of a claim a postmark affixed by the U.S. Postal Service or equivalent documentation from a private postal service showing when the item was mailed. TDA will not accept as proof of submission of a claim a postmark affixed by a postage meter.

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4242.1 One-Time Exception

A one-time exception may only be used once within a 36-month time period for each USDA Child Nutrition Program (CNP) in which the CE participates. The CACFP is one CNP, regardless of whether a CE participates in only at-risk afterschool care center component or if they also participate in Adult Day Care and/or Day Care Homes.

A one-time exception granted to a CE does not eliminate the CE from consideration for a one-time exception for another CNP claim, for example, the Summer Food Service Program.

If the CE has …	Then the CE may …
Not used the one-time exception provision within the 36-month time period,	Choose or request to use the one-time exception payment or receive no payment for the late claim. If the CE submits claims for more than one month at the same time, then the CE may choose the claim month for which to apply the one-time exception.
Already used the one-time exception provision within the 36-month time period,	Request a good cause exception.

4242.2 Good Cause

Requesting a Good Cause Exception

<table>
<tr><th>If a CE …</th><th>Then TDA …</th></tr>
<tr><td>Requests a good cause exception,</td><td>Will consider each request on a case-by-case basis. The CE must demonstrate that the noncompliance occurred due to circumstances beyond its control (i.e., Good Cause).

<table><tr><th>If TDA…</th><th>Then TDA…</th></tr><tr><td>Approves the request,</td><td>Will forward the request to USDA for approval.</td></tr><tr><td>Does not approve the request,</td><td>Will deny payment of the late claim.</td></tr></table></td></tr>
<tr><td>Does not request a good cause exception,</td><td>Will deny payment of the late claim.</td></tr>
</table>

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Examples of good cause beyond a CE's control may include, but are not limited, to:

- A catastrophic incident such as a tornado, flood, or fire; or
- A life-threatening injury or illness to the person responsible for submitting the claim.

NOTE: Catastrophic incidences, life-threatening injuries or illnesses **do not** automatically entitle a CE to be granted a good cause exception. The responsibility is upon the CE to demonstrate how the catastrophic incident, life-threatening injury or illness caused a situation that made submitting the claim within 60 days unreasonable/impossible.

Examples of reasons that would **not** be considered good cause beyond a CE's control include, but are not limited to:

- Absence of personnel on the 60th day, for reasons other than a life-threatening injury or illness;
- TX-UNPS is down or inaccessible for electronic filing;
- A malfunction of power or equipment at the CE's facility; or
- Failure to get the claim in the mail in time to get it postmarked on the 60th day.

If USDA determines that a CE's request for a good cause exception does not demonstrate that the noncompliance occurred due to good cause, payment of the late claim will be denied. CEs cannot appeal USDA's denial of a claim. However, CEs may appeal TDA's denial to submit the CE's request for a good cause exception to USDA for consideration of payment.

4243 Adjusted Claims

A CE may have a reason to submit an adjusted claim (that is, make a change to an already submitted claim) to amend any of the information submitted. An adjusted claim that results in TDA owing the CE money (an upward adjustment), will be included in the CEs next regular reimbursement payment. If the adjustment results in the CE owing TDA money (a downward adjustment), the amount will be deducted from the CEs next claim or claims until the funds have been repaid.

A CE that needs to adjust an already submitted claim may do so by following the instructions in the TX-UNPS user manual located at http://TXUNPS.TexasAgriculture.gov.

Occasionally, an adjusted claim as the result of disallowances taken during an administrative review or as the result of claim validation will be required. If this occurs, TDA will notify the CE in writing and provide appeal rights.

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4243.1 Upward Adjusted Claims

The corrective action procedures stated in Item 4242, *Late Claims*, also apply to any upward adjusted claim postmarked or received by TDA more than 60 days after the last day of the adjusted claim month.

4244 Limitations on Administrative Reimbursement for Sponsoring Organizations

Sponsors may only withhold an amount not to exceed 15% of the CACFP reimbursement paid annually as a source of income for paying actual allowable administrative costs incurred in supporting the operation of the nonprofit food service in its sites. The sponsor must maintain documentation to support the percentage of CACFP reimbursement withheld.

Sponsors that are operating with less than 15% (for example, sponsors that have operated at 12% for 2 or more consecutive months) are expected to retain no more than the lesser percentage each month unless or until they can document that the amount needed has increased or decreased. **NOTE:** When determining the monthly percentage, those costs which are incurred each month but are paid on a quarterly basis must be included in the calculation of the monthly amount.

Each claim month, sponsored sites submit their food service participation information to the sponsor who then consolidates the information and prepares the *Claim for Reimbursement*, for submittal. Upon receiving the reimbursement for a claim month, sponsors must determine each site's reimbursement and deduct from each site's reimbursement the amount the sponsor withholds for administrative costs in an amount not to exceed 15%.

Sponsors must not include the cash-in-lieu amount when calculating its administrative cost percentage, and sponsors must also have documentation of actual expenses to support the percentage of reimbursement withheld each month.

Sponsors must also use the *Sponsoring Organization Disbursement Record* (H4503), or alternate, for any financial transaction in which the sponsor receives CACFP funds from TDA, including reimbursements related to advance payments, initial claim payments and adjusted claim payments.

The *Permanent Agreement Between Sponsoring Organization and Child Care Site,* prohibits the sponsor from charging the facility for CACFP services (see page 1, Rights and Responsibilities of the Sponsor, Number 5).

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A sponsor **requiring** a site to use software or services the sponsor provides must include the cost of the software or services in the allowable percentage of administrative reimbursement the sponsor can withhold each month, and cannot charge a separate amount in addition to the allowable percentage, regardless of whether the software or services are paid for out of CACFP funds or non-CACFP funds.

In addition, a sponsor **requiring** a site to use software or services provided by another source must reduce the allowable percentage of administrative reimbursement it can withhold each month by the amount paid by the site to that third party, regardless of whether the software or services are paid for out of the CACFP funds or non-CACFP funds by the site.

Sponsors charging a site for software or services, or requiring a site to purchase software or services from another source, in addition to withholding administrative reimbursement, exceeding 15%, will be required to reimburse the site for excess charges and may be placed in the serious deficiency process.

Sponsors must have an internal accounting system in place to show how much and where the funds including overages were applied and must ensure the funds are used to enhance and support the nonprofit food service.

4244.1 Sponsors of Affiliated Sites

A sponsor of affiliated sites must only use an amount not to exceed 15% of each month's total CACFP reimbursement to pay for actual allowable administrative costs. The sponsor must use the remaining amount of each month's CACFP reimbursement to enhance the quality of the food service operation.

The sponsor must indicate on the *Sponsoring Organization Disbursement Record* (H4503) or alternate the total amount of the CACFP reimbursement it received for the corresponding claim month and the amount the sponsor withheld to apply to its actual allowable administrative costs. A sponsor of affiliated sites only completes Section 2 of the *Sponsoring Organization Disbursement Record* (H4503).

4244.2 Sponsors of Unaffiliated Sites

A sponsor of unaffiliated sites must only withhold an amount not to exceed 15% of each month's CACFP reimbursement to pay for actual allowable administrative costs. Sponsors of unaffiliated sites must disburse reimbursements to its sites **within 5 days of receipt** of payment from TDA, this includes advances if applicable. A sponsor of unaffiliated sites must complete all sections of the *Sponsoring Organization Disbursement Record* (H4503) or alternate.

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Each month Sponsors of unaffiliated sites must provide to each site written documentation that details the reimbursement the site is receiving that month, and includes the:

- Name of the site;
- Total meals/snacks claimed, by type, by the site for the month;
- Total meals/snacks disallowed, by type, including the reason(s) for the disallowances, for the month, if applicable;
- Total meals/snacks submitted for reimbursement (minus disallowances, if applicable);
- Total reimbursement for meals/snacks claimed and submitted for reimbursement for the month (minus cash-in-lieu);
- Total cash-in-lieu for the month, if applicable;
- Total withheld for allowable administrative expenses for the month; and
- Total reimbursement paid to the site for the claim month.

The *Claim for Reimbursement Worksheet-Meals* (H4502) or alternate and *Sponsoring Organization Disbursement Record* (H4503) or alternate as well as the claim summary in TX-UNPS can be used in preparing this documentation for each site.

4254.3 Sponsors of Both Affiliated and Unaffiliated Sites

A sponsor of both affiliated and unaffiliated sites must only withhold an amount not to exceed 15% of each month's total CACFP reimbursement to pay for actual allowable administrative costs. A sponsor of both affiliated and unaffiliated sites must:

a. Indicate in Section 2 of the *Sponsoring Organization Disbursement Record* (H4503) or alternate the total amount of the CACFP reimbursement it received for the corresponding claim month and the amount the sponsor withheld to apply to its actual allowable administrative costs for unaffiliated sites only.
b. Complete Section 3 of the *Sponsoring Organization Disbursement Record* (H4503) or alternate for the unaffiliated sites only.
c. Disburse reimbursements to its unaffiliated sites **within 5 days of receipt** of payment from TDA, this includes advances if applicable.

4244.4 Waiver to Limitation on Administrative Reimbursement for Sponsoring Organizations

Sponsors may request approval to withhold a percentage of reimbursement that exceeds 15% for allowable administrative costs, if the sponsor:

- Does not have an outstanding debt to the Texas Department of Agriculture (TDA);
- Is not currently in the serious deficiency process; and
- Is in good standing with the Comptroller of Public Accounts

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To request a waiver, the sponsor must:

- Complete and submit the *Contracting Entity Request for Waiver of 15% Limit for Allowable Administrative Costs* form, as well as have the required documentation listed on the form to support the request available for review prior to approval of the waiver.
- Revise the Contracting Entity Budget Detail screen in TX-UNPS.
- Mark the Administrative Waiver Documentation Checklist item and indicate the date the waiver form was submitted, in TX-UNPS. Select the red "Submit for Approval" button to transmit your request.

If approved, the:

- Approval would be effective no earlier than two full months* from the approval date;
- Sponsor must obtain a signed *Acknowledgement By Sponsored Child Care Facility* and *Amendment 1 to Permanent Agreement Between Sponsoring Organization and Child Care Site* from each currently participating unaffiliated site and each new unaffiliated site they sign an agreement with.

*For example, the sponsor's request is approved November 20, 2018 the earliest it could begin withholding the higher amount would be February 2019. This gives the sponsor and unaffiliated sites time to execute the amendment, or the unaffiliated sites time to choose one of the other options given them on the amendment form.

An unaffiliated site that is currently participating with a sponsor at the time the sponsor receives an approved waiver has the following options:

- Execute the amendment and agree to allow the sponsor to retain more than 15%;
- Terminate its agreement with the sponsor and apply to participate directly with TDA;
- Request a "good cause" transfer from TDA to transfer to another sponsor during the current Program Year;
- Terminate its agreement with the sponsor and apply with another sponsor during the open enrollment period of June 1 through July 31.

A sponsor that has received an approved waiver must notify its current and potential unaffiliated sites of the approved waiver, and explain what it means to the site's reimbursement amount, prior to signing an agreement and amendment with that site. Failure to do so could result in adverse action, up to placement in the serious deficiency process and termination of the CE's Permanent Agreement.

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4300 Operation of Child Nutrition Program During a Disaster

Disasters, such as hurricanes, tornadoes, and floods, and an outbreak of a pandemic disease can cause situations that are not typical of the day to day operation of a CE or site. Below is guidance for handling CACFP operations in the event of a disaster or pandemic.

Eligibility for Free Meals

Children residing in or evacuated from disaster areas may be determined homeless and are categorically eligible for free meals.

CEs and sites can get verification of the child's homeless status from the:

- School district homeless coordinator,
- Homeless liaison (in cases where a liaison assisted the family in moving in with another household),
- Application from the Health and Human Services Commission with case number showing receipt of Disaster Supplemental Nutrition Assistance Program (D-SNAP) ,or
- Adult member of the child's household
    - The adult member would complete the *CACFP Meal Benefit Income Eligibility Form* and designate the child or children "homeless."

Host families can include the displaced family members and any income provided to them when applying for free or reduced-price meals.

In cases where an evacuated family or child is not categorically eligible and an application cannot be completed or obtained, the CE may request shared income information from the school in which the child is enrolled (if applicable) and for whom a school official completed an application on the child's behalf.

Children determined eligible for free meals as a result of a disaster remain eligible for 12 months.

Designated Emergency Shelters

TDA may designate as "temporary emergency shelters" organizations that provide:

- Temporary shelter and meals to displaced families, and
- Meals to displaced families though not providing actual shelter (for example, organizations that are serving meals to those sheltered in locations not providing meals).

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These designated emergency shelters will not be required to complete the entire application process to participate in the CACFP and may serve and claim up to three meals (breakfast, lunch, and supper) each day for children through age 18.

Meal Components and Meal Service

Modifications to time of meal service and use of offer versus serve may be made with TDA approval. Additionally, changes to meal components, such as using canned or dry milk in the event that fluid milk is unavailable may be approved by TDA.

During unanticipated school closures at-risk afterschool care centers that are able can continue to serve meals and snacks, but may as necessary modify the meal type offered. For example, at-risk centers that normally offer a snack and supper may instead choose to offer either a lunch and snack or breakfast and snack. Changes to the meal type(s) and times offered must be submitted via TX-UNPS.

Any other modifications to the required meal pattern must be submitted to TDA and will be approved or denied in consultation with FNS.

Record Keeping

CEs must maintain required records. When required records have been destroyed due to a disaster CEs should consult with their Community Operations office for guidance.

Other Exceptional Emergency Situations or Man-made Disasters

Other exceptional emergency situations or man-made disasters, such as human pandemic or chemical plant explosions, may impact the ability of schools, institutions, and sponsors to continue normal Program operations (for example, congregate feeding, review requirements, etc.).

In the event of such exceptional emergency situation or man-made disaster, flexibilities may be approved by USDA on a case-by-case basis to accommodate the needs of severely impacted areas. CEs in these situations should contact their Community Operations office for assistance.

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Resources

The following resources are available to assist in planning for and responding to disasters:

FNS Disaster Resources website at: https://www.fns.usda.gov/disaster/disaster-assistance

National Center for Homeless Education: McKinney-Vento Toolkit at: https://nche.ed.gov/pr/liaison_toolkit.php

FEMA: Guide for Developing High-Quality School Emergency Operations Plans at: https://www.fema.gov/media-library/assets/documents/33599

4400 Program Documentation

4410 Record Retention

CEs must keep the Permanent Agreement and any amendments for at least three years from the end of the CE's final Program Year. CEs and sites must retain all documents relating to their participation in the Program, such as claims and supporting documents that are specific to a particular Program Year, for at least three years from the end of that Program Year. For example, all documents specific to the CACFP 2016 Program Year must be retained until September 30, 2019.

NOTE: Records that have not been revised and are still in effect at the end of a program year will be considered current and cannot be archived or destroyed until three years from the end of the program year in which they are finally superseded. For example, budgets, management plans, organizational charts, etc.

EXCEPTION: If audit findings, claims, or litigation have not been resolved, all forms and records must be retained beyond the required time period until all issues are resolved.

4420 Availability of Records

CEs and sites must allow TDA, USDA, Government Accountability Office, and representatives of other appropriate agencies to inspect facilities and records and to audit, examine, and copy records during normal business hours, which at a minimum are 8:00 a.m. to 5:00 p.m., Monday through Friday.

CEs and sites must maintain their CACFP records separately from records of other programs; additionally sponsors must maintain separate records for each of their sites.

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4430 Types of Records

CEs and sites must keep complete and accurate records of the Program including, but not limited to, the following:

- Copies of applications and supporting documents submitted to TDA, including but not limited to
  - Budget Detail, all versions submitted
  - Direct Deposit Authorization
  - Application for Texas Identification Number
  - Contracting Entity Management Plan
  - Pre-Award Civil Rights Compliance Review form
  - Description of qualifying afterschool program
  - Documentation of Licensure, or exemption if applicable
  - Documentation of compliance with health and safety requirements
  - Proof of tax-exempt status (501(c)(3))
  - Organizational chart
  - Articles of Incorporation, Certificate of Formation, Assumed Name Certificate
  - Governing Body Awareness
  - Government Issued Identification and proof of residential mailing address
    - Drivers' license or personal identification card issued by the Texas Department of Public Safety, or a similar document issued by an agency of another state, regardless of whether the card or license has expired,
    - Military identification,
    - Valid US Passport
    - Current, valid voter registration card,
    - Official mail addressed to the person's current address, by name, from a utility provider or government agency or bank,
    - A lease (that has not expired) executed by the individual,
    - Any other proof approved by TDA.
  - School data
  - Site applications
- Copies of financial documents, including but not limited to
  - Cash register tapes, invoices, delivery slips, and receipts
  - Receiving reports from vendors signed by authorized staff
  - Itemized purchase invoices

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- Records showing costs of processing, distributing, transporting, storing, and handling food (if these costs are in addition to the cost on the purchase invoice)
- Credits - if they are not shown on invoices
- Canceled checks or other forms of receipts for payments
- Inventory records (including records of major inventory adjustments)
- Records of insurance claims and collections
- Mileage logs to support transportation costs
- Payroll records (such as payroll ledgers, IRS Form W-2, IRS Form 941, and cancelled payroll checks, time distribution reports)
- Records of all income to the Program
- Records of donations to the Program, such as food, services, supplies or labor
- Bank statements
- General ledgers
- Copies of audits
- Records of dates and amounts of food service payment to each of a sponsor's sites

- Procurement records, including the basis for the cost or price and the reason for selecting a particular
  - Method
  - Contract type
  - Contractor
- Daily meal production records that include the food items and amounts of food prepared.
- Daily records of
  - The names and number of children in attendance (H1535/H1535-AT)
  - The number of meals, by type, served to children (including names)
  - The number of meals served as second meals, if any
    - Documentation sufficient to justify the service of second meals (if claimed for reimbursement)
  - The number of meals, by type, served to adults (Program Meals) working in the food service (H1535/H1535-AT)
  - The number of non-Program meals, by type, served to adults (H1535/H1535-AT)
- Copies of medical statements with prescribed substitutions for children with disabilities or who require special diets
- Copies of CACFP claims and receipts for payment from TDA
- Rosters for children residing in emergency shelters with their parents or guardians (including the arrival and withdrawal dates, the child's name and age)

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- Documentation of training
  - Documentation of training provided to staff prior to beginning key CACFP activities and annually thereafter
  - Documentation of attendance at training provided by TDA or the ESC
  - Documentation of training provided to sites (sponsors only)
- Records of site reviews (locations, dates, problems noted, corrective action prescribed, and technical assistance provided), including completed Reviews (H1606-AT)
- Records of pre-approval visits (H1606-AT-P)
- Agreements
  - Copy of organization's Permanent Agreement with TDA
  - Copies of *Permanent Agreement Between Sponsoring Organization and Child Care Site* for all sponsored unaffiliated sites
  - Lease/rental agreements
  - Subcontractor agreement
  - *Invitation for Bid and Contract for Purchased Meals* (IFB)

*Not all records pertain to sponsored sites, for example the Texas Department of Agriculture Food and Nutrition Division Permanent Agreement.

CEs and sites that scan original documents for storage must maintain the original (source) documentation on file if that documentation contains signatures. For example enrollment records, *Daily Meal Count and Attendance*, *CACFP Meal Benefit Income Eligibility Forms*, etc.

Additionally, all other copied or scanned documentation must copy or scan completely and must be legible when viewed or printed. Failure to maintain acceptable documentation could result in disallowances or unallowable costs.

4440 Required Forms

CEs and sites must use forms provided by TDA to administer and operate the CACFP with the *exception* of the forms listed below.

The forms listed below are provided for CE and site use in documenting compliance with the operation of the Program.

CEs and sites may develop their own forms or documentation, in lieu of using the forms listed below, to capture the information contained in these forms. CEs and sites must ensure that they maintain this information as required and that it is available for review.

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Failure to capture all required information on alternate documentation, including certification statements and signatures (as applicable), could result in Program non-compliances, including disallowances and/or placement in the serious deficiency process.

- *Governing Body Awareness*
- *Daily Meal Production Record – Child Care* (H1530)
- *Daily Meal Count and Attendance Record (At-Risk)* (H1535-AT)
- *Documentation of Meals Claimed* – At-risk (H1540-AT)
- *Record of Leftover/Recycled Food (*H1568*)*
- *Claim for Reimbursement Worksheet – Meals* (H4502)
- *Sponsoring Organization Disbursement Record* (H4503)
- *Review* (H1606-AT)
- *Pre-Approval Visit* (H1606-AT-P)

4450 Confidentiality

CEs and sites must protect the confidentiality of any information that has been provided by a household. The CE and site must not release any information that contains a Program participant's name or other individual information. Summary information, such as the number of participants, can be released.

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Section 5000
Visits, Reviews, and Audits

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5000
Visits, Reviews, and Audits

5100 Visit Prior to Approval

Prior to approving an organization's application for participation, Texas Department of Agriculture (TDA) staff will conduct a visit to:

- Evaluate the organization's management ability and the resources (for example, staff) that it has reserved for its CACFP operation;
- Verify the information submitted on an application;
- Determine if the organization is eligible to receive reimbursement for the month prior to agreement execution; and
- Provide technical assistance as appropriate.

Inconsistencies between TDA's observations during the visit and the information that the organization submitted may result in denial of the application, and in some cases could result in the placement of the organization and responsible principal(s)/responsible individual(s) in the serious deficiency process.

5200 90-day Technical Assistance Visit

Each new CE will receive a visit from an Educational Service Center (ESC) representative within its first 90-days of Program operation. This visit is to allow the CE an opportunity to ask any questions it may have related to the operation of the Program and receive guidance on Program requirements. This visit will also allow the ESC representative to review the documentation the CE has on file and advise the CE of any corrections it needs to make to the documentation and/or procedures so the CE may come into compliance or remain in compliance.

The 90-day technical assistance visit can be a scheduled or unscheduled visit, and all visits will be documented with a copy given to the CE.

5300 Administrative Reviews

TDA conducts administrative reviews of contracting entities' (CEs) Program operations to:

- Ensure the operation complies with Program requirements; and
- Assist and advise a CE that has questions about the Program operations or programs it operates.

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The administrative review includes an observation of a meal service and an examination of Program records. The CE must allow the USDA, TDA, and any of their representatives to inspect its site and/or sponsored sites and examine and copy records during normal business hours.

On or around November first of each year TDA will send an automated email via TX-UNPS to each CE that will be included in the review schedule that Program Year (PY) and will be receiving an announced review.

Generally, TDA will notify a CE of the specific date(s) of an announced review at least two weeks prior to the beginning of an administrative review or follow-up administrative review. However, TDA does conduct unannounced reviews and CEs will not be given prior notification of an unannounced review.

5310 Frequency and Scope

Independent centers will, at minimum, be reviewed as follows:

- Within the first 12 months of Program operation
- At least once every three years
- Independent centers that have been determined seriously deficient at any time, or determined to be at risk for Program non-compliance will be reviewed more frequently

Sponsoring organizations will, at minimum, be reviewed as follows:

- 1-100 Sites – once every three years
- More than 100 sites – once every two years
- New sponsoring organizations with 5 or more sites – within the first 90 days of Program operation
- New sponsoring organizations with less than 5 sites - within the first 12 months of Program operation
- Sponsoring organizations that have been determined seriously deficient at any time, or determined to be at risk for Program non-compliance will be reviewed more frequently

Depending on the size of the CE's operation reviews could span a period of two days to two weeks or more. TDA will conduct reviews during the CE's normal hours of operation.

TDA will review a "test month" and review all records for that month, expanding the review to include other months if needed.

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Financial records for the prior PY, and for the current PY through the month of the review, will be reviewed as well.

5320 Review of Records

To ensure continued compliance with all applicable rules and regulations, timely and accurate completion of the review, and to minimize disruption to the CE's daily program operations, TDA will inspect the CE's Program documentation in advance of its review. CEs must provide all requested documentation by the due date noted in the Engagement Letter for TDA F&N Community Operations' review and assessment.

At least 35 calendar days prior to an announced administrative review, the Community Operations staff mails an Engagement Letter to the CE with the following information:

- Date and time of on-site visit portion of the administrative review
- A Document Request Packet (DRP) that contains:
  - A list of all required documentation to be submitted to TDA F&N Community Operations by the specific due date.
    - The specific due date that all requested documentation must be received by TDA F&N Community Operations (approximately 3 weeks from the date the Engagement Letter is received) will be noted in the Engagement Letter.
    - The documentation requested will be specific to the circumstances of the CE.
  - Instructions for uploading the documents into TX-UNPS
  - Additional instructions for on-site document review

As a best practice, CEs should periodically scan their documentation throughout the year to prepare for reviews. CEs are encouraged to combine multiple required documents into single PDFs (up to 150 MB) to allow for more efficient uploading. CEs seeking technical assistance with uploading the documents to TX-UNPS are encouraged to contact their respective ESC Service Representatives for technical assistance (the contact information for the ESC Representative is included in the Engagement Letter).

If required, after the desk review of the CE's documentation, the TDA reviewer will send the CE any questions pertaining to missing or incomplete documentation in advance of the review. This allows for a quicker resolution of discrepant information or the retrieval of missing or incomplete records during the onsite review.

NOTE: It is necessary for the CE to have the original versions of the submitted documents available at the onsite review.

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If the CE does not provide the DRP records by the designated due date, and/or any additional documentation/data requested during the on-site review prior to the end of the exit conference, it could result in adverse action, as well as possible placement in the serious deficiency process.

NOTES:

- Costs incurred from making copies for the administrative review are considered allowable administrative costs if they are in the CE's approved budget.
- Records requested for an administrative review could include records for the three years prior to the month of the review.

5330 Entrance Conference

Upon arrival at the CE's location, the TDA reviewer(s) will conduct an entrance conference with an Authorized Representative (person(s) designated to act on the organization's behalf per the *Certificate of Authority for External Users* (FND-101).)

During the entrance conference the TDA reviewer(s) will:

- Explain how the review will be conducted;
- Review records and complete a records checklist with the CE. Missing records/information will be requested and the CE will have until the agreed upon due date discussed during the entrance conference, and no later than the exit conference to provide missing records/information); and
- Answer any questions the CE may have regarding the review process or the Program.

5340 Meal Service Observation

During the review the TDA reviewer(s) will observe a meal service. The observation of the meal service will inform TDA if the CE or sponsored site is:

- Complying with its approved meal service times (beginning and ending);
- Preparing meal production records in accordance with record keeping requirements;
- Taking a point of service meal count;
- Serving a reimbursable meal; and
- Complying with civil rights requirements.

5350 Exit Conference

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Before concluding the review, the TDA reviewer(s) will conduct an exit conference with an Authorized Representative (person(s) designated to act on the organization's behalf per the *Certificate of Authority for External Users* (FND-101).)

During the exit conference the TDA reviewer(s) will provide the CE with a *preliminary** review report and:

- Request clarification for any discrepant information not previously discussed;
- Explain any non-compliances found;
- Document any outstanding documentation/data requested for review purposes not yet received;
- Provide technical assistance in the areas of non-compliance as well as any areas requested by the CE; and
- Answer any questions the CE may have.

The TDA reviewer will not be able to tell the Authorized Representative the amount of any disallowances, if applicable or if the CE has been determined seriously deficient. The final review results will be provided in a *Notification of Review Findings* once all information is compiled.

The CE should use the preliminary review report to begin immediate corrective action in areas identified as non-compliant.

*Preliminary review findings are subject to change upon further review of noted observations, review of scanned or copied information and evaluation of any additional documentation provided to the TDA reviewer(s) at the exit conference.

5360 Notification of Review Findings

After all information has been compiled the CE will receive a notification of review findings. This notification will explain the areas of non-compliance, if any, and request appropriate corrective action from the CE. In addition, if any disallowances are being taken, or unallowable costs were determined these will be included in the notification as "adverse actions". If there are any adverse actions taken the notification will include appeal rights. See Section 8000, *Adverse Action and Appeals*, for additional information.

If the CE is determined seriously deficient the notification will include this information. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

5370 Corrective Action

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If the CE is determined to be non-compliant with Program requirements it will be required to correct those non-compliances and submit a corrective action plan (CAP). The CAP will indicate the correction(s) made, including the date and document the procedures and processes the CE put in place to ensure the non-compliances do not occur again in the future. The CAP will be received and submitted by the CE using the corrective action document (CAD) tool in TX-UNPS.

Typically the CE will be given thirty days to submit its CAP. In some cases, the CE will be given less than thirty days for corrective action. Failure to correct non-compliances and submit an acceptable CAP could result in placement in the serious deficiency process. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

5380 Site Reviews

Reviews of sponsored sites are conducted to determine a sponsor's ability to administer the Program. This is accomplished by reviewing the site's compliance with Program requirements, including a meal service observation, review of records and record-keeping requirements, review of training documentation, review of monitoring documentation, and interviewing site staff.

5400 Periodic Visits

TDA may conduct a periodic visit of CEs that have been determined to be at risk of Program noncompliance. During periodic visits, TDA provides technical assistance to improve a CE's management ability and to reduce the risk of Program noncompliance that could result in adverse action, including placement in the serious deficiency process and/or termination of a CE's Permanent Agreement. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

TDA has established specific criteria for the uniform selection of CEs that may receive a visit. The criteria evaluate Program operation requirements at both the central and individual site levels.

TDA applies these criteria to a CE's application, visit prior to approval, previous administrative and site reviews, and technical assistance visits. The purpose of this evaluation is to identify error-prone CEs and sites and to reduce the risk of Program noncompliance.

See below for an explanation of the specific criteria.

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5410 Administrative Operations

When selecting CEs for periodic visits, TDA uses (at minimum) the following criteria to evaluate a CE's administrative operations:

- Ability to complete critical elements of a Program application, for example, budget, VCA documentation, procurement, monitoring, and training;
- Submittal of an adjusted claim for more than three months during a PY; and
- Repeated submittal of claims that report high or perfect meal counts and attendance (meaning children are never absent).

5420 Site Level Operations

When selecting sites for periodic visits, TDA uses the following criteria to evaluate site level operations (this list is not all-inclusive):

- Most or all children have perfect attendance;
- The site consistently claims the same number of meals and snacks each day (block claiming);
- A quantity of meals are claimed in excess of licensed capacity; and
- Meals are claimed in excess of observed attendance.

5500 Audits

Audits are conducted to determine whether:

- Financial operations are conducted properly;
- Expenditures of Program funds comply with applicable laws and regulations;
- Internal procedures meet the objectives of federally assisted programs;
- Financial statements are correct; and
- Financial reports contain accurate information.

5510 General Policy

Non-Federal entities (States, federally recognized Indian Tribes, local governments, nonprofit organizations, and for-profit organizations) that expend $750,000 or more during their fiscal year in Federal awards must have an audit conducted for that year. CEs will identify their fiscal year and the source and amount Federal funds they expect to expend that FYE on the Annual Audit screen in TX-UNPS, during initial application and each year after.

CEs subject to audit must be audited on a single (organization-wide) audit basis by independent

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auditors and must comply with the requirements found in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

EXCEPTION: If a CE expends Federal awards under only one Federal program (such as CACFP) it may obtain a Program-specific audit. Auditors must conduct Program-specific audits in accordance with generally accepted government auditing standards (GAGAS) and the program-specific audit guide. Reference 2 CFR 200 for additional information.

Organizations subject to the audit requirement must obtain the audits on a yearly basis unless they are:

- A State, local government, or Indian Tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.

- A nonprofit organization that has obtained biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995 (30-month period). All consecutive audits obtained during this 30-month period must have been on a biennial basis. Any interruption in the biennial process during this 30-month period disqualifies the CE from being able to obtain a biennial audit for fiscal years beginning after June 30, 1996; or

- If biennial audits are conducted, they must include both years. However, if an organization is subject to the audit requirements and they have a financial audit performed annually, they must also obtain a single audit on an annual basis. CEs that are exempt from the single audit requirement remain subject to any audit requirements prescribed by State or local laws or regulations.

5520 Scope of Audit

Audit(s) must be performed in accordance with GAGAS and must cover the entire operations of the CE.

The auditee must prepare:

- Financial statements
- Schedule of expenditures of Federal Awards
  - List of individual Federal programs by Federal Agency
  - The name of the pass-through entity and identifying number assigned to that pass-through entity

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- Total Federal awards expended for each individual Federal program and the Catalog of Federal Domestic Assistance (CFDA) number or other number when the CFDA number is not available
- Total amount provided to subrecipients from each Federal program

- Summary schedule of prior audit findings
- Audit findings (schedule of findings and questioned costs), to include:
- Corrective action plan, if applicable

The auditor must prepare:

- An auditor's report which includes
  - An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole.
  - A report on internal control over financial reporting and compliance with provisions of the laws, regulations, contracts and award agreements, noncompliance with which could have a material effect on the financial statements.
  - A report on the compliance for each major program and a report on internal control over compliance.
  - A schedule of findings and questions costs.
- Audit Findings
  - Significant deficiencies and material weaknesses in internal controls over major programs and significant instances of abuse relating to major programs.
  - Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program.
  - Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program.
  - Known questioned costs that are greater than $25,000 for a Federal program that is not audited as a major program.
  - The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs.
  - Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs.
  - Instances where the results of audit follow up procedures disclosed that the summary schedule of prior audit findings materially misrepresents that status of any prior audit findings.

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IMPORTANT: The lists above are not all-inclusive. Reference 2 CFR §200.500 for complete requirements.

5530 Compliance with Audit Requirements

Contracting entities that are not exempt from the audit requirement must arrange for an audit to be conducted by a/an:

- Independent auditor;
- Local government accountant;
- Independent certified public accountant; or
- Independent public accountant.

Auditors must have been licensed on or after December 31, 1970, and the license or certificate must still valid.

When seeking auditing services procurement requirements must be followed (reference Section 7000, *Financial Management*), and the CE must request a copy of the audit organization's peer review report.

Audits must be submitted as described below within 30 days of receipt from the auditor or nine months after the end of the audit period, **whichever comes first**.

Based on the FYE date provided information provided, TDA will send a courtesy notification to the CEs of the due date for their audit using nine months after the end of the audit period. However, failure to receive such notification does not relieve a CE of the responsibility to submit an audit if required. Additionally, this notification does not extend the submission date for those who receive the audit **prior** to nine months after the end of the audit period.

Nonprofit CEs

Audits from nonprofit organizations must be submitted to the Federal Audit Clearinghouse at https://harvester.census.gov/facweb/ and a copy must be submitted to TDA at the following address:

Texas Department of Agriculture
Attn: Business Operations – Audits
P.O. Box 12847
Austin, Texas 78711

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The copy can be submitted on paper, CD, or email.

If submitting by email, send to: CACFP.Bops@texasagriculture.gov. Include Audit – organization name and CE ID# in the subject line.

The CE should review and accept the completed audit before submitting it to the clearinghouse and TDA.

If the audit is organization-wide but the CACFP is not specifically audited, the CE must submit a letter from the auditor stating that the Program was included in the random sampling process but was not selected for audit.

For-profit CEs

Audits from for-profit organizations must be submitted to TDA at the following address:

Texas Department of Agriculture
Attn: Business Operations – Audits
P.O. Box 12847
Austin, Texas 78711

The audit can be submitted on paper, CD, or email.

If submitting by email, send to: CACFP.Bops@texasagriculture.gov. Include Audit – organization name and CE ID# in the subject line.

The CE should review and accept the completed audit before submitting it to TDA.

If the audit is organization-wide but the CACFP is not specifically audited, the CE must submit a letter from the auditor stating that the program was included in the random sampling process but was not selected for audit.

5540 Sanctions for Noncompliance

TDA will place a CE in the serious deficiency process if the:

- Audit is not submitted to the clearinghouse by the due date (does not apply to for-profit CEs);
- Audit is not submitted to TDA by the due date;
- CE submits an audit that does not meet the requirements. TDA will notify the CE in writing that the audit is unacceptable. The CE must submit an acceptable audit within 30

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calendar days of the date of the notice.

If TDA determines that extenuating circumstances resulted in the CE's inability to submit an acceptable audit, TDA may conduct an audit, either directly or through a contract with a third party. The CE must pay all costs associated with such an audit.

5550 Reimbursement for Audits

TDA reimburses CEs the appropriate portion of the cost of obtaining an organization-wide or program-specific audit. The monies that TDA allots will be based on the funding provided by USDA for this purpose and the percentage of CACFP funds that the CE receives in relation to all other funding sources. If a CE has evidence confirming that the CACFP portion of an organization-wide audit had a higher actual cost, the CE may request additional reimbursement. However, under no condition will TDA fund 100 percent of the cost of an organization-wide audit.

A CE must submit a copy of the paid audit invoice to receive payment. The CE cannot include audit costs on a claim for reimbursement or in their budget. TDA only reimburses those CEs that have a Permanent Agreement and were required to submit an audit.

CEs will not be reimbursed for audits that were:

- Not properly procured
- Not required by regulation or policy, for example, audits obtained by CEs that expended less than $750,000 in Federal awards
- Required but were not conducted according to regulation or policy

After all requests for reimbursement have been received for a specific fiscal year, TDA will determine whether sufficient funds are available to pay 100 percent of the CACFP portion of all eligible audits. If sufficient funds are not available, TDA will reimburse each CE a pro-rata share of their audit costs. TDA will determine the pro-rata share by dividing the total amount of available audit funds by the total amount of audit funds that were requested. CEs will then be paid that percentage of their audit costs.

EXAMPLE: If available audit funds total $250,000, and TDA receives requests that total $400,000, then each CE would be reimbursed $250,000 ÷ $400,000, or approximately 63 percent of their eligible audit cost.

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5560 Other Audits

TDA retains, both for itself and the federal government, the right to conduct additional audits as necessary.

If serious deficiencies such as fraud or misuse of funds occur and corrective action would not be practical, TDA will immediately terminate or amend the CE's Permanent Agreement to eliminate its participation in the CACFP.

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Section 6000
Civil Rights

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
11-28-2022	Revised to reflect that discrimination based on sex also includes discrimination based on gender identity and sexual orientation.	Introductory text
11-28-2022	Updated the Non-discrimination statement per USDA Food and Nutrition Service updates	6120
11-28-2022	Removed content allowing visual observation to report racial/ethnic data. Added best practices for racial/ethnic data and reference to new Data Collection form.	6130
11-28-2022	Added that Civil Rights training is now provided by the Institute for Child Nutrition and provided the SquareMeals.org link to that training.	6150

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Civil Rights

A contracting entity (CE) is responsible for ensuring that all persons have equal access to the program. The CE and sponsored sites cannot discriminate in employment or program participation based on:

- Race;
- Color;
- National Origin;
- Sex (including sexual orientation and gender identity);
- Age; or
- Disability.

A CE must strictly adhere to and enforce the provisions of the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), both within the CEs administrative office and if a sponsor, within the sites it sponsors.

Civil rights laws do allow CEs and sponsored sites to restrict Program participation based on age or sex commensurate with the objectives of the Program, for example, child care centers can deny the participation of elderly persons, shelters for battered women can deny the participation of men.

See handbook section 4000, *Managing the Program*, Item 4140, *Prohibition of Separation by Gender*, for guidance and waiver information.

Refer to USDA Food and Nutrition Service (FNS) Instruction 113-1, *Civil Rights Compliance and Enforcement – Nutrition Programs and Activities* for additional information.

6100 Title VI of the Civil Rights Act of 1964

6110 Limited English Proficiency

CEs and sites that fail to provide services to Limited English Proficiency (LEP) potentially eligible persons, applicants, and participants, or deny them access to the Program and activities, may be discriminating on the basis of national origin. Title VI of the Civil Rights Act requires CEs and sites to take reasonable steps to assure "meaningful" access to the information and services they provide.

Reasonable steps to ensure meaningful access is contingent on a number of factors, including:

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1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the CE or site;
2. The frequency with which LEP individuals come into contact with the Program;
3. The nature and importance of the program, activity, or service provided by the Program to people's lives (will the denial or delay of access to the services or information have serious or even life-threatening implications for the LEP individual); and
4. The resources available to the CE or site and costs.

6120 Non-discrimination Statement

CEs and sponsored sites must provide the following non-discrimination statement and complaint-filing procedures in all applications and Program-related information intended for the parents of current and potential participants (see next page):

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In English the non-discrimination statement and complaint-filing procedure is:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

(2) fax: (833) 256-1665 or (202) 690-7442; or

(3) email: Program.Intake@usda.gov.

This institution is an equal opportunity provider.

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In Spanish the non-discrimination statement and complaint-filing procedure is:

De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo (incluyendo identidad de género y orientación sexual), discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: https://www.fns.usda.gov/sites/default/files/resource-files/usdaprogram-discrimination-complaint-form-spanish.pdf, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a USDA por:

(1) correo: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; o

(2) fax: (833) 256-1665 o (202) 690-7442; o

(3) correo electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.

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The non-discrimination statement **must be printed in its entirety** on all Program-related documents that are produced for public information, public education, or public distribution.

Program-related written materials must be provided to all current and potential program participants with the non-discrimination statement and complaint-filing procedures included.

EXCEPTIONS:

- When material is too small to permit the full non-discrimination statement, the material must include, in font size no smaller than the other text, the following statement: "This institution is an equal opportunity provider." For example, a recipe given to a household as part of nutrition education.
- The non-discrimination statement is not required to be printed on items such as cups, buttons, magnets, and pens that identify the Program when the size or configuration make it impractical.
- When advertising the Program through radio or television announcements, the entire non-discrimination statement does not have to be read; rather, a statement such as "The (name of the CE or site) is an equal opportunity provider" is sufficient.
- The entire non-discrimination statement does not have to be included on every page of a CE's Program information website; at minimum, the non-discrimination statement or a link to the statement must be included on the CE's home page.

NOTE: When human likenesses are used in program materials, reasonable efforts must be made to depict an ethnic balance.

6130 Data Collection and Maintenance

A CE and sponsored sites must determine the number of actual and potentially eligible beneficiaries by both racial and ethnic category currently participating in the program, annually.

To determine the number of *potentially* eligible beneficiaries, CEs and sponsored sites can obtain information from many different resources such as comparative enrollment in other sites, schools, census data, local Chamber of Commerce, and local minority and grass roots organizations.

To determine number of actual beneficiaries, CEs operating an enrolled site typically gather this information within enrollment forms. For sites that do not have enrollment, such as many At-risk sites, the preferred method for obtaining this information is participant self-identification or self-reporting. As of May 17, 2021, federal policy prohibits visual observation as an allowable practice for gathering this data.

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While requesting data verbally is allowable, TDA understands that requesting information verbally may be uncomfortable for staff and for participants. Respect for individual dignity should guide the processes and methods of collecting data on race and ethnicity.

Additionally, TDA discourages asking a child to self-identify their race and ethnicity, as this practice may confuse young children. Obtaining data from parents or guardians is the preferred method of data collection, as parents or guardians can provide accurate information. If a parent or guardian is not present at the time of meal pick-up, or if the parent chooses not to identify, their response may be marked "unknown." For that reason, TDA does not expect that the number of respondents will equal the number of children at a meal service site. However, TDA expects CEs to continue to capture the data.

The *Collection of Child Nutrition Program Participant Racial/Ethnic Data Prototypes* form, located on the SquareMeals.org CACFP Administration/Forms page, can assist program operators in capturing racial and ethnic data to the best extent possible.

Racial/ethnic categories include the following:

Ethnicity

(1) *Hispanic or Latino*. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic or Latino."
(2) *Not Hispanic or Latino.*

Race

(1) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
(2) *Asian.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
(3) *Black or African American.* A person having origins in any of the black racial group of Africa. Terms such as "Haitian" can be used in addition to "Black or African American."
(4) *Native Hawaiian or Other Pacific Islander.* A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
(5) *White.* A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Children of multiple racial categories may be categorized in more than one racial group.

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Parents and guardians may be asked to identify the racial or ethnic group of the participating child/student only after the following has been explained:

- Providing the information is to ensure compliance with USDA nondiscrimination requirements only
- Failure to report the information will not affect the participant's eligibility for meals.

Program operators of sites that do not require enrollment should choose data collection methods that are easy for adult participants or parents and guardians to use. For this requirement, parents and guardians of children attending non-enrolled sites are not required to provide the participant's name. Parents and guardians must not be required to fill out a free or reduced-price meal application for a non-enrolled program.

After collecting this data, a CE and sponsored sites must:

- Maintain the original data by individual site with documentation of the sources and methods by which it was obtained; and
- Maintain the data and relevant documentation according to the record keeping requirements described in Section 4000, Program Documentation; and
- Establish safeguards to protect the confidentiality of the data.

6140 Administrative and Site Reviews

Reviews help to ensure that civil rights requirements are fulfilled at each level of Program administration, including the application approval process and the federal and state monitoring efforts.

F&N will determine whether a CE and sponsored sites comply with civil rights requirements before approving an application to participate. Compliance is determined by examining the *Pre-Award Civil Rights Compliance Review* form submitted with the initial application, as well as by observation during the visit prior to approval. During administrative and site reviews, F&N will also evaluate compliance with civil rights requirements.

A sponsor must determine a site's compliance with civil rights during its pre-approval visit and during each of its required reviews of its sites.

6150 Training

A CE must complete Civil Rights training prior to Program participation and annually thereafter. In addition, CEs must ensure that all staff that perform key CACFP activities and all sponsored sites, if applicable, are trained in civil rights requirements prior to Program participation and annually thereafter.

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Civil rights training for CACFP CEs is accessed through the Institute for Child Nutrition (ICN). Links to the training are available on SquareMeals.org at: https://squaremeals.org/FandNResources/Training/CivilRights.aspx

6160 Complaints

CEs and sponsored sites must have procedures for processing complaints. Staff at all locations must be able to provide documentation of the procedures and an explanation of the complaint process.

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. Complaints can be written or verbal. If the complainant makes a verbal complaint, the person to whom the allegation is made must write up the elements of the complaint and should make every effort to obtain the following information:

a. Name, address, and telephone number or other means of contacting the complainant,
b. The specific location and name of the organization participating in the CACFP,
c. The nature of the incident or action that led to the complaint of discrimination,
d. The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability or sex.),
e. The names, telephone numbers, titles, and business or personal address of persons that may have knowledge of the alleged discriminatory action, and
f. The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

If a civil rights complaint is filed, the CE must forward it to USDA immediately. Sponsors are also responsible for forwarding civil rights complaints filed with a site to USDA.

The complaints should be sent to:

USDA Food and Nutrition Service
Attn: Regional Civil Rights Director
1100 Commerce St.
Dallas, Texas 75242

A courtesy copy should be sent to Community.Ops@TexasAgriculture.gov.

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6200 Section 504 of the Rehabilitation Act of 1973

6210 Program Accessibility

The Program, when viewed in its entirety, must be accessible to and usable by disabled persons, including persons with impaired vision or hearing. A CE is not required to make every part of existing facilities physically accessible to disabled persons but must ensure that the Program(s) are accessible.

CEs and sponsored sites must offer the most integrated setting possible to enable persons with disabilities to fully benefit from the Program.

CEs and sponsored sites can make the Program accessible to persons with disabilities by:

- Moving to accessible buildings;
- Assigning aides to assist children;
- Delivering services at alternate accessible sites (for sites with 15 or fewer employees);
- Redesigning their equipment;
- Changing the schedule of service hours;
- Altering existing facilities; and/or
- Constructing new, accessible facilities.

A CE, and sponsored sites, should develop a transition plan to ensure Program accessibility when structural changes to buildings are necessary.

If a CE or sponsored site cannot provide services to a person with disabilities because a part of a center, day care home, or facility where services are provided is not accessible, it must:

- Inform the person with the disability of alternate sites where they can receive services; and
- Pay all or part of any additional cost the person with disabilities incurs as a result of being transported to the alternate site. (There are some circumstances when a CE or sponsored site is not required to pay these costs. Contact your Education Service Center for additional information.)

6220 Public Notification

CEs and sponsored sites must:

- Display the official USDA non-discrimination poster ("...And Justice For All") in a prominent place;
- Make Program information available to the public upon request;

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- Provide information materials related to the Program in languages other than English, if the need exists; and
- Provide the non-discrimination statement and complaint-filing procedures in all applications and Program-related information intended for the parents of current and potential participants.

CEs and sponsored sites must have a public notification system to inform applicants, participants, and potential participants of the Program availability, Program rights and responsibilities, the policy of non-discrimination, and the procedure for filing a complaint.

The public notification system must include the following three basic elements:

1. Program Availability. CEs and sites must take specific action to inform applicants, participants, and potential participants of their Program rights and responsibilities.
2. Complaint Information. CEs and sites must advise applicants and participants of the right to file a complaint, how to file a complaint, and the complaint procedures.
3. Non-discrimination Statement. CEs and sites must ensure all information materials and sources, including websites, used to inform the public about the Program contain the non-discrimination statement located in Item 6120, *Non-discrimination Statement*.

6230 Employment

CEs and sponsored sites are prohibited from discriminating against any qualified person based on a disability. Reasonable accommodations must be made for the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. A CE or sponsored site is not expected to make accommodations that impose an undue hardship on the operation of the Program.

6240 Food Services

Each participating site must serve special meals without additional charge to children with disabilities that restrict their diet. Refer to Section 4000, *Managing the Program* for additional information related to meals for children with disabilities or special dietary needs.

6250 Designation of Section 504 Coordinator

CEs and sponsored sites that employ 15 or more people must designate one or more persons to coordinate compliance with Section 504 regulations. An existing employee may be designated to perform this function.

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6260 Complaint/Grievance Procedures

CEs and sponsored sites that employ 15 or more people must maintain procedures to process complaints and grievances. Procedures that are required by a program other than the CACFP may satisfy this requirement if they comply with due process standards and provide for prompt and equitable resolution of complaints and grievances. Refer to Item 6160, *Complaints*, for minimum information to obtain.

6270 Self-Evaluation of Services

CEs must evaluate the quality and availability of their services to people with disabilities and correct any inequitable policies or practices. The evaluation should be made with the assistance of people with disabilities or organizations that advocate for people with disabilities.

CEs must maintain a list of interested persons with whom it consulted, a description of the areas examined, the problems that were identified, and descriptions of modifications that were made.

CEs must retain the results of a self-evaluation study in accordance with CACFP recordkeeping requirements. Refer to Section 4000 for additional guidance on program documentation.

CEs that are sponsors must ensure their sites are in compliance with all civil rights requirements.

6300 Americans With Disabilities Act

6310 Introduction

The Americans With Disabilities Act (ADA) became effective January 26, 1992. This act and Section 504 of The Rehabilitation Act of 1973 combine to prevent a wide range of discriminatory actions against disabled persons. The ADA, however, does not replace Section 504. The ADA applies to all persons and is not limited solely to persons who receive federal financial participation.

The ADA comprises the following subjects:

- Non-discriminatory practices
- Reasonable accommodation

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The ADA applies to the following areas:

- Services; and
- Employment.

6320 Services

When evaluating the services offered, including at sponsored sites, the CE should consider the following questions:

- Can the person with disabilities get to the facility with reasonable ease?
- If the person can reach the location, can they enter the facility and access the specific location where services are provided?
- If they can access the location where services are provided, is there an accessible bathroom?
- If they can access the location where services are provided, are necessary accommodations made for their particular disability?

6330 Employment

In accordance with the ADA, CEs and sponsored sites:

- Cannot discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job.
- Can inquire about a person's ability to perform a job but cannot ask whether a person has a disability or subject a person to tests that screen out people with disabilities.
- Must provide "reasonable accommodation" to persons with disabilities (for example, job restructuring and modification of equipment).

NOTE: A CE or sponsored site is not required to provide accommodations that impose an undue hardship on their business.

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Section 7000
Financial Management

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NOTE: Highlighted text in this document reflects substantive changes to this handbook in Program Year 2020-2021. All highlights will be removed at the beginning of the next Program Year. Refer to the most recent Revision Notice for this handbook for a summary of updates.

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7000
Financial Management

7100 Financial Controls

A CEs financial management must be in compliance with 2 Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 48 CFR Part 31, *Contract Cost Principles and Procedures*, 7 CFR Part 226, *Child and Adult Care Food Program*, FNS Instruction 796-2 *Financial Management – CACFP*, TDA policies, and must provide for the following:

- Identification, in its accounts, of the Federal awards received and expended, and the Federal programs under which they were received. Federal program and Federal award identification must include:
    - The Catalog of Federal Domestic Assistance (CFDA) title and number, for example, Child and Adult Care Food Program #10.558;
    - Federal award identification number (FAIN) and year;
    - Name of the Federal agency; and
    - Name of the pass-through entity, if any.
- Accurate, current, and complete disclosure of the financial result of each Federal award or program.
    - Up-to-date correct information supported by documentation
    - Accounts for all elements of the Program
    - Complies with generally accepted accounting principles (GAAP)
- Records that identify adequately the source and applications of funds for federally-funded activities. The records must contain information pertaining to the Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
- Effective control over, and accountability for, all funds, property, and other assets. The CE must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- Comparison of expenditures with budget amounts for each Federal award.
- Written procedures to ensure:
    - Disbursement of funds is done in a manner that minimizes the amount of time between the CEs receipt of the funds to the disbursement of those funds whether disbursement is made by electronic funds transfer, checks, warrants, or payment by other means.
    - Request and use of advance payments only after other resources have been exhausted, and in accordance with 2 CFR 200.305.

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- Written procedures for determining if costs are allowable in accordance with 2 CFR 200.302 & 2 CFR 200 Subpart E and FNS Instruction 796-2 *Financial Management – CACFP*.
- Internal controls that ensures the CE:
    - *Manages* the Program in compliance with Federal statues, Federal regulations, TDA rules, policies and guidance.
    - *Complies* with Federal statutes, Federal regulations, TDA rules, policies and guidance.
    - *Evaluates and monitors* its compliance with Federal statues, Federal regulations, TDA rules, policies and guidance.
    - *Takes prompt action* when instances of noncompliance are identified, including noncompliance identified in audit findings.
    - *Safeguards* protected personally identifiable information and other information.

These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Standards for Internal Control in the Federal Government

https://www.gao.gov/assets/gao-14-704g.pdf

Internal Control Integrated Framework

https://www.coso.org/guidance-on-ic

Reference also Section 2000, *Eligibility and Application Requirements*, Item 2222, *Performance Standards*, Viability, Capability and Accountability (VCA). VCA processes and procedures submitted during application must be in compliance with the above and must be updated as changes occur.

Federal awards include, but are not limited to, reimbursement from participation in any of the child nutrition programs administered by TDA.

7200 Conflicts of Interest

Organizations participating in the CACFP are required to disclose and identify related party transactions, less-than-arms-length transactions, ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits TDA from making an informed assessment of whether a particular cost is allowable.

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A less-than-arms-length transaction is one under which one party to the transaction is able to control or substantially influence the actions of the other(s). Such transactions include, but are not limited to, those between divisions of an organization; organizations under common control through common officers, directors or members; and an organization and a director, trustee, officer, key employee of the organization or immediate family, either directly or through corporations, trusts or similar arrangements in which a controlling interest is held. See also Arms-length bargaining and related party transaction in Exhibit A of *FNS Instruction 796-2, Financial Management – CACFP*.

Related parties include, but are not limited to:

- Brothers/sisters
- Spouse
- Parents/grandparents
- Children/grandchildren
- Half-brothers/sisters
- Domestic partners and parents thereof
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship
- Affiliates of the organization
- Principal owners of the organization and immediate members of their families
- Management of the organization and immediate members of their families

A CE cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services.

NOTE: A sponsor may require a site to have a written code of standards of conduct as part of corrective action if needed.

No officer, agent, consultant, contractor, volunteer, or other employee of a CE, or sponsored site, may engage in any activity which causes or could cause a conflict of interest in the operation of the CACFP, including but not limited to:

- Renting or leasing from a firm in which any officer, agent, consultant, or employee (or relative) has an interest and this related party transaction has not been fully disclosed.
- Soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, sites or parties to subcontracts.
- Soliciting donations or fees from the CE's sites.
- Asking sponsored sites to engage in any kind of business on the CE's behalf.

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A CE must establish and maintain a written code of standards of conduct which govern the performance of its officers, employees, or agents. This written code must:

- Prohibit owners, members, officers, or employees from soliciting gifts, travel packages, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit owners, members, officers, or employees from accepting gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit an owner, member, officer, or employee from participating in the selection, award, and administration of any contract to which an entity or certain persons connected to them, has a financial interest.
- Set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value, and therefore may be acceptable.
- Provide for disciplinary actions in the event of violation.

All less-than-arms-length transactions must be disclosed to TDA and requires specific prior written approval before the cost is incurred and included in the budget.

7300 Procurement

NOTE: School Food Authorities operating the National School Lunch Program (NSLP) and CACFP have the option to comply with NSLP procurement standards as outlined in 7 CFR 210.21 and TDA's Administrator's Reference Manual for NSLP (located on SquareMeals.org).

Procurement is the orderly process of acquiring, by lease or purchase, goods and services such as food, meals, equipment, bookkeeping, and auditing. Procurements must be conducted in a manner that allows for full and open competition (meaning everyone that wants to bid is on a "level playing field" and has the same opportunity to compete.) A contracting entity (CE) must comply with state and federal procurement requirements. These requirements enable the purchase of goods and services at the best available price and avoid conflicts of interest when making purchases.

Costs incurred through improper procurements are unallowable. If TDA disallows costs because of improper procurements, it may be determined that the food service operation is not nonprofit and could result in adverse action, up to and including termination of the CE's or sponsored site's participation in the CACFP.

NOTE: Sponsors are responsible for ensuring their sites comply with procurement requirements and operate a nonprofit food service. By contracting with TDA to be a sponsor in the CACFP, the CE has accepted final administrative and financial responsibility for the

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operation of the Program, including the operation of the Program at sponsored sites. Any fiscal action as a result of a sponsored site's failure to operate the Program correctly, including procurement, will be taken against the sponsor.

7310 Procurement Procedures

CEs must have procurement procedures in place that provide the steps and actions that will be taken to properly procure goods and services in accordance with Program requirements. The level of detail should be reflective of the CEs operations.

The procedures must provide that proposed procurement actions will be reviewed by the CEs officials to avoid the purchase of unnecessary or duplicative items, and where appropriate an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. The procedures must encompass each procurement method discussed in this handbook. The procedures must also include the following elements:

1. Forecasting and scheduling of purchases: plan procurements for the Program Year (PY) by evaluating resources, projecting expenses and determining needs prior to initiating a procurement process by assessing:
   - Current approach, such a meal preparation (self-preparation, central kitchen, need for a Food Service Management Company (FSMC)).
   - Storage capacity.
   - Equipment.
   - Resources, such as income/revenue and staff.
   - Other operational needs.
2. Selection of the procurement method: generally the aggregate amount of the goods or services will determine the procurement method to be used. Aggregate cost means the total cost of the item(s) purchased in a single transaction. A single transaction occurs when goods or services are purchased from the same supplier at the same time, regardless of the quantity of items purchased or the length of payment terms, i.e., payment over a specified period of time such as 12 months. CEs must have in place any other factors, such as distance, storage, etc., and decision steps that will be used to determine the method. Include steps to:
   - Develop solicitations.
     - The description and scope (specifications) must be in line with what is being procured.
     - Must be clearly stated so that bidders will understand and can be responsive to the need.
     - Must identify all of the requirements that bidders must fulfill so that changes do not need to be made to a contract after it is awarded, including identification of prohibited expenditures.

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- Must include evaluation and scoring factors, with cost as the primary factor.
- Must not contain features which unduly restrict competition.

- Advertise.
  - Content must be sufficient to identify:
    - General nature of the goods or services to be procured.
    - Method of procurement to be used.
    - How a bidder can obtain the solicitation or more information.
    - The due date for responses to the solicitation.
  - Methods of advertisement must allow for full and open competition.
    - State, regional or nation-wide newspapers.
    - Trade periodicals.
    - Internet sites.
    - Direct mailings (small purchase procurement method only).
- Affirmative steps to assure small and minority businesses and women's business enterprises are utilized when possible.
  - Include qualified small and minority businesses and women's business enterprises on solicitation lists.
  - Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential resources.
  - When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business and women's business enterprises participation.
  - Where the requirement permits, establishing delivery schedules which will encourage participation of small and minority businesses and women's business enterprises.
  - Use the services of the Small Business Administration and the Minority Business Enterprise of the Department of Commerce.
  - If subcontracts are to be let, require the prime contractor to take the affirmative steps above.

3. Evaluating proposals/offers:
   - Determine if bids were received from responsible and responsive contractors.
     - Responsive means contractor's products or services meet the specifications.
     - Responsible means a contractor that can and will successfully fulfill the terms and conditions of the proposed procurement.
       - Integrity.
       - Compliance with public policy.
       - Record of past performance.
       - Financial and technical resources.
   - Must use cost as the primary factor.
   - Must be evaluated without consideration of any included unallowable cost provisions.

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4. Awarding and managing the contract:
    - Must be awarded to the lowest responsive and responsible bidder, or the responsible firm whose proposal is most advantageous to the Program with price as the primary factor.
        - Legally ensures commitment.
        - Provides record of the deal.
        - Ensures contractor performs in accordance with the terms, conditions, and specifications of the contract by verifying:
            - The quantity and quality of the goods and services requested.
            - The goods and services were received on time.
            - The prices charged for the goods and services are the prices bid and within budget.
5. Protest procedures: provide dispute resolution for any action which diminishes open and free competition
    - Supply copies of dispute resolution procedures to all potential bidders.
        - Include name and address of person who will make a determination whether or not the protest should be sustained.
    - Disclose information regarding all protests to TDA.

CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder such as a provision which allows for individual competitive procurement of similar items during peak seasons, or to allow small minority or women-owned farms the opportunity to bid, or during emergency situations, etc.

A CE cannot allow any entity bidding for a contract award to develop:

- Specifications.
- Requirements.
- Statements of work.
- Invitations for bids.
- Requests for proposals.
- Contract terms and conditions.
- Other procurement documents.

CEs must draft their own specifications and procurement documents (exception – procurements for vended meals must be done using TDA's Invitation for Bid and Contract for Purchased Meals. See below).

Any CE that copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid has violated both Federal and State procurement regulations.

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While it is understood that CEs have broad discretion in gathering information for use in connection with procurements, any information from potential bidders must be appropriately modified to develop tailored specifications; otherwise these bidders must be excluded from competing. This is to ensure objectivity and eliminate unfair competitive advantage.

EXCEPTION: If CEs choose to use a vendor's information or assistance in developing procurement documents and the vendor is allowed to compete for the award, then the CE or sponsored site **must not** use any CACFP funds for the resulting award.

NOTE: CEs purchasing meals from a school food authority that participates in the National School Lunch Program (NSLP) are not required to conduct procurement for purchased meals.

7320 Procurement Methods

Depending on the circumstances, a CE must choose from among the following methods of procurement:

Informal – costs equal to or less than $50,000

Micro-purchase – may only be used if the costs are equal to or less than $10,000
Small purchase

Formal – costs greater than $50,000

Competitive sealed bids
Competitive proposals
Noncompetitive proposals

Regardless of the dollar amount or the method of procurement used, CEs must ensure full and open competition, and must follow their written procurement procedures.

CEs cannot:

- Require unreasonable credentials for potential bidders when qualifying them to do business.
- Allow noncompetitive practices between suppliers.
- Permit organizational conflicts of interest.
- Impose unnecessary experience and bonding requirements on suppliers who seek the CE or sponsored site's business.

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CEs can choose to use a formal procurement method for items that fall below the $50,000 threshold; but cannot choose to use an informal procurement method for items that exceed the $50,000 threshold.

7320.1 Micro Purchases

A micro-purchase is the acquisition or purchase of products or services that have an aggregate cost that does not exceed the micro-purchase threshold of $10,000.

Additionally, as required in Item 7310, *Procurement Procedures*, specifications must have been developed to ensure the determination that micro-purchase is the appropriate procurement method is correct, but also to ensure an accurate comparison of the cost.

When using the micro-purchase method formal quotes and a formal cost analysis is not required. However, the CE/site must ensure that the cost of the product and/or service is reasonable, i.e., a cost comparison. Cost comparisons can be as simple as a list of commonly purchased items with comparison prices from two to three different vendors, newspaper advertisements, or spreadsheets. The method and frequency must be documented in the written procedures.

To the extent practicable, the CE/site must distribute micro-purchases equitably among qualified suppliers/vendors. This can be accomplished in many ways, such as alternating suppliers/vendors each month, or purchasing some items from one vendor and other items from another vendor on the same day. The CE/site must still ensure the cost is reasonable and that micro-purchase is the proper method.

Any costs that the CE incurs as a result of the CE intentionally breaking up larger purchases into smaller amounts to qualify under the micro-purchase threshold are unallowable costs.

7320.2 Small Purchases

If purchasing services, supplies, or other property with an aggregate cost less than or equal to $50,000, small purchase procedures may be used.

Small purchase procedures require a CE, or sponsored site, to obtain price quotations from an adequate number of qualified sources (for example, three vendors). Acceptable forms of price quotations include but are not limited to:

- Newspaper advertisements from various suppliers/vendors.
- Online advertisements from various suppliers/vendors.

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- Documentation of phone quotes from various suppliers/vendors to include:
    - Supplier/vendor name.
    - Name of person providing information.
    - Date(s) of contact.
    - Information provided, including product and pricing.

Prior to obtaining quotes, as required in Item 7310, *Procurement Procedures*, specifications must have been developed to ensure the determination that small purchase is the appropriate procurement method is correct, but also to ensure the quotes from suppliers/vendors are for the same goods and services.

7320.3 Competitive Sealed Bids

Competitive sealed bids must be used if a purchase is more than $50,000 and the CE, or sponsored site, can:

- Completely and accurately describe the goods or services it wants to purchase.
- Locate two or more responsible bidders that are willing to compete for the business.
- Award a firm-fixed price contract.
- Choose from among bidders mainly on the basis of price.

EXAMPLE: A CE purchases milk at a cost of $57,000 per year. There are several milk vendors in the community. Since the purchase is over $50,000 and this type of purchase lends itself to sealed bids, the CE must use this method of procurement.

When conducting a competitive sealed bid, CEs will:

- Advertise publicly (for example, in a newspaper).
- Solicit bids from an adequate number of known suppliers.
- Clearly describe the items or services to be purchased in the invitation for bid.
- Publicly open the bids at the time and place stated in the invitation.
- Award the contract to the lowest responsive and responsible bidder that meets the requirements of the invitation.
- Document any and all reasons a bid is rejected.

EXCEPTION: A CE or sponsored site may award a contract to a supplier that is not the lowest bidder if the CE has sound documented business reasons for doing so and this documentation is submitted to and the contract approved by TDA prior to the award.

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7320.4 Competitive Proposals

Competitive proposals for purchases of $50,000 or more should be used when the conditions for sealed bids do not exist. The competitive proposals method of procurement requires a CE, or sponsored site, to publicize a request for proposals (RFP) and solicit proposals as well. After the proposals are received the CE or sponsored site will evaluate responsive proposals and upon award, may conduct contract negotiations with two or more bidders.

When using competitive proposals, CEs must:

- Solicit proposals from an adequate number of qualified sources.
- Publicize the RFP.
- Honor all requests to compete as far as practical.
- Identify all evaluation factors and their relative importance in the RFP.
- Have a written procedure for evaluating proposals and for determining respondents for negotiation and for selection.
- Award contracts to the highest scoring respondents.
- Promptly notify unsuccessful respondents.

EXAMPLE: A CE wants to purchase accounting services that would cost more than $50,000 per year. Since several factors are of equal or greater importance than price, the CE may want to use competitive proposals for this purchase.

7320.5 Non-Competitive Proposals

In non-competitive proposals, the CE negotiates with a single source. This method may be used only when the CE has submitted a written request and has been granted permission from TDA. TDA may approve the use of this method when one or more of the following conditions exist:

- The item that the CE wants to purchase is only available from one source;
- A public exigency or emergency exists, i.e., when the urgency for the requirement will not permit a delay incident to competitive solicitation;
- After solicitation of a number of sources, competition is determined inadequate.

<u>Sole Source</u>

The product and/or service is available only from a single (sole) source distributor, supplier, or manufacturer. For sole source method to be used there must be only one possible source for the product and/or service. Sole source noncompetitive procurement requires TDA approval.

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Before offering a sole source noncompetitive contract, a CE must verify that the product and/or service can only be procured from a single source. A procurement where there is only one offer is not necessarily sole source. There may be other suppliers, distributors, or manufacturers that could have submitted an offer but chose not to.

EXAMPLE: There are three companies that commonly provide the type of cooling equipment that a CE is attempting to procure. Company A chooses not to bid because it is unable to meet the delivery timeline. Company B no longer distributes the line of products that would have met the specifications and technical requirements. Therefore, Company C is the only offeror. In this situation, the single offer submitted is not sole source. Rather, it is an inadequate competitive response to the solicitation. The CE must follow the guidance for that type of noncompetitive procurement.

For a sole source method to be used there must be only one possible source for the product and/or service. A CE cannot accept a statement from the supplier, distributor, or manufacturer as verification that the product and/or service is only available from a single source. In order to determine if the product and/or service is sole source, a CE must:

- Attempt to solicit offers from other suppliers, distributors, or manufacturers
- Retain records that demonstrate its efforts to solicit offers for the product and/or service from other suppliers, distributors, or manufacturers.

TDA must approve all sole source procurement transactions before the award of the contract. To request approval to use a sole source contract, the CE must submit a request to TDA in writing (paper, fax, or email). In its written request, the CE must include the following information:

- Description of the CE's actions to ensure that the supplier, distributor, or manufacturer is sole source
    - CE's review may include questioning other vendors of similar products/services to determine if those vendors can meet the precise needs of the CE. If not, written justification should be provided to TDA as to why a particular vendor would not qualify as a source.
- Copies of the CE's solicitation, advertising, and other relevant documentation that demonstrate that the supplier, distributor, or manufacturer is a sole source.

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When there is a compelling need to purchase a specific brand product and/or service, such as compatibility with current equipment, the CE must have documentation that demonstrates other available brands are not compatible with the CE's:

- Current equipment,
- Replacement part inventory, and
- Maintenance staff's expertise.

However, even if the CE meets the brand name sole source purchase criteria listed above, the CE must still determine if there is more than one supplier for the brand of equipment or the services. If there are multiple suppliers, the CE must follow normal procurement processes in awarding a contract.

NOTE: In some cases, suppliers for specific brands may be affiliated or associated suppliers which may result in collaboration among the suppliers and may restrict competition. CEs will need to address this as appropriate to ensure full and open competition.

TDA will provide written notification of approval or disapproval.

Public Exigency or Emergency

A public emergency (exigency) or unexpected emergency situation that will not permit a delay resulting from the additional time required for a competitive solicitation for the product and/or service. Emergency noncompetitive procurement requires TDA approval.

To request approval to use a noncompetitive method during an emergency, the CE must submit a request to TDA in writing (paper, fax, or email). In cases of extreme emergency, a CE may call TDA directly to alert TDA about the situation. The request must still be submitted in writing, but a phone call will raise TDA's awareness of the need for an expedited response. In its written request, the CE must include the following information:

- Explanation of the circumstances that require an emergency purchase
- A detailed description of the products and/or services to be procured
- Supplier, distributor, or manufacturer from whom the product and/or services will be procured
- Period of time the CE plans to use the noncompetitive method for the emergency

TDA will provide written notification of approval or disapproval.

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Inadequate Competition

After the CE actively and appropriately attempted to solicit offers from a number of sources, competition is deemed inadequate – that is, the number of offers that met the solicitation specification and technical requirements (i.e., responsible and responsive offers) were less than expected. This would include when a CE receives only one responsible and responsive offer. One example of when a noncompetitive proposal may be used is when a CE is so remotely located that there is a very limited number of qualified sources in the area.

In this case, a CE may only pursue a noncompetitive procurement if it has ensured that the specifications in the original IFB or RFP are not too restrictive, thereby, limiting other potentially qualified bidders, and that the proposal has been publicized.

After engaging in competitive purchasing procedures, the CE does not need TDA approval to award a noncompetitive bid when there are a limited number of offers as long as documentation is retained by the CE demonstrating that the CE did not limit competition.

Documentation would include, but is not limited to:

- Proof of due diligence in ensuring that competition was not limited, which may include:
- Performing reviews of the solicitation and advertising process
- Surveying suppliers, distributors, or manufacturers to determine why a bid was not submitted
- Copies of the solicitation, advertising, mailing lists, communication documents, contact logs, and other relevant documentation to support their findings.

Requests for TDA's review and approval of noncompetitive procurement processes may be submitted in writing to TDA as follows:

Email to:	*CE.ProcurementReviews.Bops@TexasAgriculture.gov* *Subject: CACFP Noncompetitive Procurement Request (CE name)*
Fax to:	*(888) 203-6593* *ATTN: Procurement Specialist* *Subject: CACFP Noncompetitive Procurement Request (CE name)*
Mail to:	*Texas Department of Agriculture* *Food and Nutrition* *ATTN: Procurement Specialist* *P.O. Box 12847* *Austin, Texas 78711*

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Overnight to: *Texas Department of Agriculture*
Food and Nutrition
ATTN: Procurement Specialist
1700 North Congress Avenue
Austin, Texas 78701

7320.6 Geographic Preferences

CEs may apply geographic preferences when procuring unprocessed locally grown or locally raised agricultural products.

The CE or sponsored site must include in its written procurement policies and procedures its definition of *local* for the use of this option. Definitions might include "within the state", "within specific counties", or "within a specific number of miles". This means products procured using geographic preference must come from animals or produce that are caught (e.g. fish), raided or grown in the area defined by the CE or sponsored site as "local." The CE or sponsored site must ensure its definition does not restrict full and open competition (for example, a definition that includes "within 5 miles"), and that it adheres to its own definition or it risks the procurement being determined unallowable.

Geographic preference can **only** be applied to products which are locally grown and locally raised, and that have not been cooked, seasoned, frozen, canned or combined with any other products. This does not preclude foods that have been handled and prepared to make them usable, such as washing vegetables, bagging greens, chopping, cutting, slicing, dicing or shucking, butchering livestock and poultry, pasteurizing milk and putting eggs in a carton, as well as using a minimal amount of preservatives to prevent spoilage.

Allowable products include, but are not limited to:

- Fruits.
- Vegetables.
- Meats (including fresh or unprocessed frozen products and formed products such as patties that contain no additives or fibers).
- Fish (including whole, form, filets or nuggets that contain no additives or fillers).
- Poultry (including whole, form, or various cuts).
- Dairy (applies to unflavored pasteurized fluid milk that meets State and local standards only).
    - Flavored milk or any processed dairy products, such as yogurt, cheeses, etc. are not allowed.
- Eggs.
- Grains (including quinoa, rice, barley, etc. in whole form and other grains in ground form such as flour).

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The option to allow geographic preferences when procuring unprocessed locally grown or locally raised agricultural products does not eliminate the requirement for procurements to be conducted according to the policies and procedures outlined in this handbook.

7330 Procurement using Cooperatives, Agents, and Third-party Entities

Cooperatives, agents and third-party entities can be beneficial is assisting CEs in obtaining better buying power and ensuring proper procurement when the CE does not necessarily have the technical understanding of the process. However, using any of the following options does not relieve the CE from administrative and financial responsibility for proper procurement as conducted by the CE itself or on behalf of the CE using one of the methods discussed below.

These methods are not a type of procurement and a CE using any of the below methods must ensure that procurements are conducted in a manner maximizing full and open competition, and must ensure costs are necessary, reasonable, allocable and otherwise allowable per 2 CFR 200.403, applicable cost principles in 2 CFR 200, subpart E, and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

Cooperatives

A cooperative that is comprised solely of CEs may procure as a group and must do so in compliance with the procurement standards that apply to the CE (7 CFR 226.22, and/or 48 CFR Part 31, and 2 CFR 200.318-.326). This includes complying with all State and local procurement standards, if more restrictive, and publishing solicitations and contracts with all terms, conditions, required contract provisions, as applicable, and clearly identifies all product descriptions, specifications, and estimated quantities required. Further, each CE that is a member of the cooperative is responsible for monitoring contractor performance to ensure compliance with all contract provisions. Written agreements delineating roles and responsibilities are encouraged.

Agents

An agent is a person or business authorized to act on a client's behalf. An agency may be necessary for procuring goods or services when/if the CE does not have the necessary technical understanding of the equipment, service, food or other food service supplies to be purchased; or lacks time or expertise to conduct a proper procurement. A procurement agent represents a special fiduciary relationship of trust between itself and the CE. In other words, the agent must be contractually required to conduct all competitive procurement methods with the CE's interests solely in mind. An agent's services in excess of the micro-purchase threshold currently set at $10,000 must be competitively procured in accordance with Federal procurement methods outlined in 2 CFR 200.320.

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When an agent is needed to procure goods and services on behalf of the CE, the CE must first determine if the agent fee is within the micro-purchase threshold or if a competitive procurement method must be conducted for the services of the agent.

If a solicitation is required, the scope of duties and responsibilities must be clearly defined as well as how prices/costs for services are to be quoted for evaluating agents' bids/responses for contract award.

Some agents often charge fees to vendors who pass such fees on to the CE. CEs must not enter into a contract with an agent that charges the CE a fee **and** charges the vendor a fee. The CE must include in its solicitation when procuring the agent, if the agent will be paid based on a:

- Flat fixed-rate for services, or
- Fee based on purchase unit, volume or cost. Fees based on a purchase unit, volume or cost must be fixed (fees cannot be a percentage of cost). If this method is selected agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume or cost for their service, or
- Vendor fee charged to the vendor by the agent which is paid to the CE and used by the CE to pay the agent's fee. If this method is selected the vendor fee must be based on a purchase unit, volume or cost must be fixed (fees cannot be a percentage of cost). If this method is selected agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume or cost for their service.

CEs must include language that details "when procuring goods or services for their client, agents must follow procedures consistent with 2 CFR Part 200.318-.326 and applicable Program regulations" which includes State and local procurement requirements if more restrictive. Published solicitations and contracts must include all terms, conditions, required contract provisions, as applicable, and all products descriptions, specifications, and estimated quantities required.

The procurement agent must confirm in its response to the solicitation that it will represent the CE and will have the CE's best interests exclusively in mind when preparing solicitations for publication on the CE's behalf. The agent may not have any conflict of interest, real or apparent. For example, the agent may not use pre-existing contractual relationships in lieu of conducting a competitive procurement on behalf of the CE.

In order to ensure free and open competition, the procurement agent must:

- Work closely with the CE to understand the CE's needs,
- Develop solicitations on the CE's behalf consistent with 2 CFR Part 200.318-.326 and applicable Program regulations as required for the CE as noted above,

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- Award contracts only to responsible contractors whose bid/offer is lowest/most advantageous to the Program with price as the primary factor,
- Award fixed-price contract, and
- Monitor the ensuing contract on behalf of the CE as required in 2 CFR 200.318(b), if specified, in the original solicitation and resulting contract.

NOTE: an agent publishing a solicitation on behalf of a CE may not respond to such solicitation, as such would constitute an unfair advantage and be in violation of Federal procurement requirements as found in 2 CFR 200.319(a).

Third-Party Entities

Third-Party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations, group buying organizations, and third-party vendors.

- State procurement agency agreements: This is an inter-governmental agreement with the State which may include public, private, and non-profit entities. This agreement allows CEs to purchase from the State's contracted sources. When competitive procurement methods are conducted by the CE, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

  The CE may consider a State agency's procurement as one source for procurement. For example, if the purchase is under $10,000, the CE may purchase directly from the State's procured sources as long as the prices are reasonable and the CE equitably distributes all procurements among all qualified suppliers available. If the procurement is less than $50,000, the CE may obtain a price or rate quotation from the State's procured sources, among other qualified sources available. For procurements over $50,000, a CE must first conduct a cost analysis (2 CFR 200.323(a)) then develop a solicitation (sealed bid or competitive proposal) and may use vendors and prices from the State's contract as one source. Remember, it is not the State procurement agency agreement that is the competitive procurement; rather, this agreement gives the CE further options of sources to utilize to ensure full and open competition.

- Inter-agency agreements: This is an agreement which may include public, private, and non-profit entities formed to procure goods and services together. When competitive procurement methods are conducted by the CE, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

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CEs purchasing through an inter-agency agreement includes entering into the inter-agency agreement to competitively procure common goods and services, then developing and publishing solicitations through sealed bids/competitive proposals. These solicitations must include procurement procedures consistent with 2 CFR Part 200.318-.326 and include the terms, conditions, required contract provisions, as applicable, and all products, descriptions, specifications, and estimated quantities. Further, each CE is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

- Group Purchasing Organizations, Buying Organizations, and Third-Party Vendors: Collectively referred to here as GPOs, these often include CEs and non-CEs (entities that do not participate in a child nutrition program) such as public and private schools, hospitals, universities, law enforcement, public works, etc. who join a third-party company or service provider. GPOs could be private for-profit or nonprofit entities. A GPO is typically structured in a way that may include a membership fee paid by member users, who are then granted access to the GPO price list of products and services. When competitive procurement methods are conducted by the CE, GPO price lists may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

  The business model of a GPO may include a variety of services of which facilitating procurement for members/member agencies and procuring products and services from an external source such as an affiliated or unaffiliated full-line distributor are included. Membership involves paying a fee in addition to the price of products and services purchased. However, paying a fee does not constitute compliance with the competitive procurement process that CEs are required to conduct when procuring products and services. A CE may pay a membership fee to multiple GPOs and when using micro or small purchase procedures may consider the price for products from GPOs as one source among an adequate number of qualified sources. For the procurement of good and services greater than $50,000, CEs must publish sealed bids or competitive proposals to which GPOs may respond provided the GPO has not drafted such solicitations. Likewise, responses to bids/proposals must be evaluated by the CE to determine the lowest responsible and responsive bidder/offeror with price as the primary factor. Purchasing goods and services from a GPO without conducting a compliant procurement process is limited to the micro-purchase threshold. Under the micro-purchase threshold, transactions are below $10,000, prices would be reasonable, and purchases would be equitably distributed among qualified suppliers.

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7340 Contracts

Contracts must be sound, complete, and include certain required elements as discussed in Item 7330.2, *Contract Provisions*.

The CE or sponsored site will award a fixed-price contract.

Fixed price means a price that is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may also contain an economic cost adjustment provision tied to a standard index.

Cost reimbursable contracts are unallowable. These include cost plus fixed-fee, cost-plus-incentive fee, cost-plus-award fee, and cost plus percentage of cost contracts. Cost reimbursable contracts provide for payment of allowable costs plus the payment of a fixed fee to the contractor.

Forward contracts (ones in which products are bought or sold at a specified time in the future at a price agreed upon today) with local producers or contracts with a Community Supported Agriculture (CSA) program are allowable, however; CEs are responsible for ensuring that all costs are reasonable, necessary and allocable and these two types of contracts require CEs to commit to buying products that may or may not actually be produced. Therefore before entering into such a contract the CE must give careful consideration and the potential risk weighed against the benefit.

Should the CE choose to retain the services of a contractor to perform one or more function, the CE is still required to retain final administrative and financial oversight and responsibility of the work performed by the contractor.

CEs may not contract out the management of the Program; however, they may subcontract some Program activities required in the management of the CACFP. Refer to Section 3000, Program Agreement for additional information.

Contact your Community Operations Field office or Education Service Center (ESC) for additional information and guidance.

7340.1 Vended Meals

A CE may contract with a vendor to provide meals to be used in its food service. TDA has developed a standard *Invitation for Bid and Contract for Purchased Meals* (IFB) that must be used for purchased meal procurements and contracts, regardless of the amount of the contract. The term of the contract cannot exceed 12 months. See below for contract renewal options.

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The IFB can be found at http://www.squaremeals.org, under CACFP Administration and Forms, under Form Number "IFB." The CE must submit the contract (including those procured by sponsored sites) to TDA for review and approval before it is signed. Contact your Community Operations Field office or ESC for questions regarding the procurement process.

It should be noted that the procurement process for purchased meals can take up to six months, so CEs should plan accordingly to ensure a plan for preparation of meals is in place during the process.

NOTE: To request an exception to using the IFB contact your Community Operations Field office.

CEs that have existing contracts for vended meals at the time they apply for participation, can continue under their existing contracts, including renewals, with the following exceptions:

- The scope and purpose of the existing contract has changed. The CE or sponsored site will be required to re-procure using the *Invitation for Bid and Contract for Purchased Meals*.
- The existing contract does not meet the requirements and guidelines and is therefore unallowable. The existing contract would need to be terminated and re-procured using the TDA IFB.

CEs that contract with franchise restaurants for meals must ensure that procurement procedures are followed including ensuring competition and use of the TDA IFB.

Contract Renewal Options

CEs may renew an existing FSMC/vendor contract during each of the four consecutive years following the base year (procurement year) of the contract, if the scope and purpose of the contract does not change.
Examples of changes that would affect the original scope and purpose of an existing contract include:

- The addition of new services, such as providing catering or vended meals to sites not under the sponsorship of the CE, concessions, or vending machines;
- Adding participation in another TDA-administered program;
- Changes in fees or the basis for fee increases not reflected in the original *Invitation for Bid and Contract for Purchased Meals*;
- A major shift in responsibilities for the CE, sponsored site or the FSMC/vendor staff; or
- Changes to the formula that is used to identify a meal.

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CEs must follow established procurement procedures when obtaining a FSMC/vendor contract for the base year. The contract period may only be effective for a maximum of one year to end September 30 each year. The contract can then be renewed each of the four consecutive years following the base year without going through the procurement process if the scope and purpose has not changed. After the base year and four renewal years have passed, the CE or sponsored site must go through the procurement process using the procurement method appropriate to their needs when obtaining a contract for purchased meals.

NOTE: The base year coincides with the Program Year, October 1 through September 30. In the CACFP, the first base year available for establishing the procurement year began with Program Year 2002 (October 2001 through September 2002).

7340.2 Contract Provisions

In order to subcontract specific CACFP activities, the CE must ensure that the:

- Services to be performed by the contractor are required in the administration/ management of the CACFP;
- Services have been properly procured according to Program procurement guidelines;
- Terms of the agreement are adequate for the services to be performed;
- Costs are reasonable in relation to the services to be performed; and
- Costs are not contingent on the CE's receipt of reimbursement.

Written agreements must be established with a contractor if the activities to be performed by the contractor are directly related to the CACFP. The written agreement must at a minimum:

- Identify the person(s) or party(ies) that will perform the subcontracted activities including any assumed names;
- Certify that the contractor, nor any of its staff, are included on the National Disqualified List (NDL) or the Texas Excluded SFSP List (TEXSL);
- Identify the specific activities that the contractor will be performing (i.e., Scope of Work);
- State that the CE (not the contractor) accepts "final administrative and financial responsibility for the operation of the CACFP";
- Stipulate the requirement of the contractor to protect confidential information;
- Provide addresses, including mailing and street addresses for both parties;
- Designate who will receive any formal notices and the acceptable manner for the delivery of such notice;
- Include the contract term (i.e., the duration of the contract);
- Include a contract renewal clause, if applicable;
- Specify conditions for requesting and receiving approval for any price increases, if applicable;
- Specify the total cost not to exceed a definite amount;

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- Include specifications regarding the rate of progress of the work and the acceptable fulfillment of the service;
- Specify payment terms;
- Provide a dispute resolution process;
- Outline the responsibilities of both parties;
- Include terms for abandonment or default (i.e., if the contractor defaults on the contract, the CE reserves the right to terminate the contract), including sanctions and penalties as appropriate; and
- Specify conditions for termination including:
    - Termination for Convenience - The CE reserves the right to terminate the contract at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice of intent to terminate.
    - Termination for Cause - The CE reserves the right to terminate the contract for cause if the contractor fails to perform in full compliance with the contract requirements, through no fault of the CE, by providing thirty (30) calendar days advance written notice of intent to terminate.

If applicable, contracts must include:

- The equal opportunity clause provided under 41 CFR 60-1.4(b); and
- A provision for compliance with the Davis-Bacon Act provided under 40 U.S.C. 3141-3144 and 3146-3148; and
- A provision for compliance with the Contract Work Hours and Safety Standards Act at 40 U.S.C. 3701-3708, for awards in excess of $100,000; and
- The *Certification Regarding Federal Lobbying* (H2049), for contract in excess of $100,000.

Contracts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

Additionally, the CE must obtain:

1. A debarment certification from the contractor in one of the following manners:

    - Include the following debarment and suspension certification in the written agreement with the contractor:
      (1) The prospective contractor certifies to the best of its knowledge and belief that it and its principals:

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(a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

- Require the contractor to sign and submit the TDA *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts* (H2048); or

- Print the page from the *System for Award Management* which indicates the contractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and maintain that document on file with the subcontract documents. The *System for Award Management* can be accessed at: https://sam.gov/content/home.

2. Certification Regarding Federal Lobbying (H2049) for any subcontract of $100,000 or more.

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CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder such as a provision which allows for individual competitive procurement of similar items during peak seasons, etc.

For additional guidance on contract provisions refer to *2 CFR 200, Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards* located at http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR

7340.3 Compensation for Purchased Services

If a CE or sponsored site agrees or contracts with a consultant or contractor for the purchase of a service, compensation for that service will be based on the provisions of the contract or agreement. When a contract or agreement identifies a fee or compensation that is based on a set percentage, the contractor or consultant cannot assess additional fees.

EXAMPLE: A contractor or consultant cannot charge sales tax on services in addition to a set percentage that is assessed for that service as stated in the contract or agreement. If a contractor or consultant charges sales tax on the service that they provide, they must extract the tax from the compensation (that is, set percentage) that is stated in the contract or agreement.

7340.4 Contract Duration and Renewal Options

The term of contracts cannot exceed 12 months and can include a provision for up to four renewals in the four consecutive years following the initial year (procurement year) of the contract, if the scope and purpose of the contract has not changed.

Prior to renewing a contract the CE or sponsored site must evaluate the terms and determine if conditions or circumstances have changed that would require re-procurement.

Some examples of changes that would affect the original scope and purpose include, but are not limited to:

- The addition of new services;
- Adding participation in another program;
- Adding sites not originally included in the procurement;
- Other changes that would materially affect the contract.

7350 Documentation and Contract Record Keeping Requirements

Procurement documentation and contract records are subject to the same record keeping requirements as all other CACFP related records (Refer to Item 4400, *Program Documentation*, for additional guidance).

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When a contract is continued or renewed annually or recorded at other intervals, the retention period for the records of the contract period starts on the date the final payment is recorded in connection with the final renewal of the contract and not the initial contract execution date. The three-year record retention period does not begin until the final contract renewal period has expired and/or the final payment is recorded, whichever occurs first.

Actions such as bid protest, litigation, and audits may result in an extension of the three year record retention period. In such cases, the records must be retained until the completion of the action and resolution of all issues arising from it, or the expiration of the regular three year period, whichever occurs latest.

Examples of such records are:

- A written rationale for the method of procurement
  - Procurement procedures
  - Justification for use of a method that does not follow the CE's written procedures
- A copy of the Request for Proposal or the Invitation for Bid
- The bidding and negotiation history
- The basis for contractor selection
  - Criteria used
  - Evaluation documentation
- Including justification for selection of a contractor that was not the lowest bidder and copy of TDA approval of selection, if applicable
- Approval from TDA to support a lack of competition when competitive bids or offers are not obtained
- The terms and conditions of the contract
- Any changes to the contract and negotiation history
- Billing and payment records
  - Invoices
  - Receipts
- Handwritten receipts, such as those from Farmers' Markets are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- A history of any contractor claims
- A history of any contractor breaches

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If procurement records generated during the performance of the contract award do not demonstrate compliance with applicable procurement requirements, the following penalties may occur:

- Disallowance of costs.
- Termination of contract.
- Request CE, or sponsored site, to issue a "stop work" order.
- Placement into the serious deficiency process.
- Other actions deemed appropriate.

For additional guidance and answers to commonly asked questions reference Section 12000, *Frequently Asked Questions*.

7400 Nonprofit Food Service

The information provided throughout this item comes from 2 Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 48 CFR Part 31, *Contract Cost Principles and Procedures*, 7 CFR Part 226, *Child and Adult Care Food Program* and FNS Instruction 796-2, *Financial Management – CACFP* and is not all inclusive of all information contained in those documents. CEs are responsible for understanding and complying with the above mentioned guidance.

CEs must operate a nonprofit food service principally for the benefit of enrolled participants and must document all aspects of the food service operation. Sponsors must ensure their sites operate a nonprofit food service.

Determining nonprofit food service status

Nonprofit status does not require that the CE operate at a break-even or loss. Nonprofit food service status is determined by the scope of the food service activities and the use of nonprofit food service revenues through:

1. Identifying all nonprofit food service revenues,
2. Deducting allowable net expenses,
3. Identifying the excess of all nonprofit food service revenues over nonprofit food service expenses, and
4. Verifying that any excess of revenues over expenses is retained and used only in the nonprofit food service operation.

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Food service revenue includes:

- CACFP reimbursement.
- Income to the Program, such as:
  - Funding from other government sources
  - Cash donations specifically given for food service
  - Grants from other organizations or individuals
  - All interest earned on CACFP reimbursements or advances
- All other funds used or restricted for use in the nonprofit food service.

Excess funds

CEs can maintain a maximum of three months' average expenditures in the nonprofit food service account. The nonprofit food service account, or net cash resources, should not exceed three months' average expenditures. If a CE approaches the maximum amount allowed in the nonprofit food service account, it should contact TDA for assistance.
To determine if an excess balance exists, complete the following calculations:

A. Total Net Cash Resources
$_____

B. Prior Year's Expenditures
$_____
Number of months' operation prior year x 3 months

If A exceeds B the CE must develop a plan to reduce the excess balance.

CEs must account for all nonprofit food service costs using generally accepted accounting principles (GAAP). CEs are responsible for accounting for costs accurately and for maintaining records to demonstrate that costs claimed have been paid, are allowable to the program, and comply with financial management requirements found in FNS Instruction 796-2, *Financial Management – CACFP* located at http://www.squaremeals.org, under:

- CACFP Administration & Forms;
- CACFP Policy & Handbook; and
- F&N Resources, tools and links.

In all cases, allowable costs must be prior approved. Levels of required approval, such as specific prior written approval and USDA Food and Nutrition Service (FNS) approval are described in the FNS Instruction 796-2, *Financial Management – CACFP* as well as the Budget and its instructions.

Costs that require TDA specific prior written approval or FNS Regional Office approval must be submitted in writing for approval prior to the CE incurring the cost or including the cost in its budget.

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To request specific prior written approval or FNS Regional Office approval submit the request, with all supporting documentation to justify the cost, to TDA using one of the following methods:

- TX-UNPS upload feature through checklist items; or
- Fax at (888) 223-8645; or
- Email to: CACFP.Bops@TexasAgriculture.gov; or
- Regular or certified mail, Attn: CACFP Applications, to:
  1700 North Congress Avenue
  Austin, Texas 78701
- Overnight delivery, Attn: CACFP Applications, to:
  P.O. Box 12847
  Austin, Texas 78711

Regardless of the method of submission ensure the name and CE ID is included.

Allowable costs

A cost may be allowable in the CACFP if it is determined to be necessary and reasonable.

Necessary costs are those that represent an activity or function that is generally recognized as reasonable and necessary for the operation of the Program. The cost must be essential to fulfill the regulatory requirements for proper and efficient administration of the Program.

Reasonable costs are those that represent an amount that does not exceed what a prudent person would pay under the same circumstances.

Allowable costs can be either direct or indirect costs. Direct costs are those costs that can be specifically identified as costs for the nonprofit food service. Indirect costs are those costs that are incurred for a common purpose within the organization, but a portion cannot be easily assigned to the nonprofit food service. If the CE will be claiming indirect costs, the rate must be part of their cost allocation plan. A cost allocation plan is a written explanation of how costs are classified.

Unallowable costs

Unallowable costs may be expressly unallowable, directly associated with expressly unallowable costs, or may be unallowable through the actions or inactions of the CE.

- Expressly unallowable costs are those that are prohibited by FNS Instruction 796-2, applicable laws or regulations.

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- Directly associated unallowable costs are the costs that result from the CE incurring expressly unallowable costs, such as the cost of supplies used by a CE engaging in prohibited lobbying activities.

- Costs made unallowable by the action or inaction of the CE include costs that might otherwise be allowable, such as approved labor costs for which the CE failed to maintain the required documentation to support the costs.

Budgeting

For budgeting purposes, the cost of an expense may be estimated; however, the nonprofit food service accounting system and the CE's supporting documentation must show only actual costs. In addition, costs must be necessary and reasonable to the operation of the nonprofit food service.

Budgeted costs are separated by "operating costs" and "administrative costs".

TDA must approve a CE's administrative and operating costs, including labor costs, in order for the CE to use CACFP reimbursements and income for those costs.

The *Budget* contains the following cost categories:

NOTE: The information below only includes those cost categories from FNS Instruction 796-2, *Financial Management – CACFP* that are potentially allowable and not determined expressly unallowable by USDA. CEs are responsible for using the instruction and the CFR for any costs not discussed below to determine if those costs are unallowable.

Labor

This includes operational and administrative labor. See FNS Instruction 796-2, #23 for all the requirements for labor costs including allowable and unallowable costs, documentation requirements, and specific levels of approval. Labor costs include costs for employees. Labor costs for independent contractors would be entered in either purchased services or contracting organization costs (see Legal expenses and other professional services).

To determine whether the cost is for an employee or independent contractor visit the IRS website at https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee?_ga=1.74484946.1747892112.1462550897

Reminder: Purchased services/professional services (such as an independent contractor) must be properly procured.

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Food

This includes the net cost of food used or the net cost of delivered meals, not the cost of all food purchased.

Facilities and Space

- Health and safety standards
  - The cost to meet regulatory Program requirements for inspections of at-risk afterschool care centers and outside school hours care centers. Costs to bring owned or rented spaces into compliance with other State and local requirements are unallowable.

- Rearrangement and alteration
  - The cost necessary for efficient and effective Program operation but do not result in capital improvements. See FNS Instruction 796-2, #17 (3).
  - This cost requires specific prior written approval.

- Rental costs
  - The cost of space used for Program purposes and that does not exceed the rental costs of comparable space and facilities for privately owned buildings in the same locality. Related party transactions are subject to additional cost limitations. See FNS Instruction 796-2, #36 d(3) for further information.

- Utilities
  - See Purchased services below.

- Other space costs
  - The cost of special lease arrangements, costs incurred during periods of non-occupancy; and a single base such as square footage to allocate maintenance and operation costs between Program and non-Program activities when these costs are not included in rent or other space charges. See FNS Instruction 796-2, #17 (d).
  - These costs require specific prior written approval.

Supplies and Equipment

- Materials and supplies
  - The cost of durable supplies (cell phones, etc.) and expendable materials and supplies (pens, paper, ink cartridges, etc.) which do not meet the definition of equipment.

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- The cost of materials and supplies related to wellness efforts, including the promotion of physical activity and limiting the use of electronic media, may be an allowable cost if the CE or site has determined the free materials provided by USDA are not sufficient.
  - The materials developed must emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media and the costs for the materials must be reasonable, necessary and allocable as to their content in relationship to CACFP requirements. CEs must ensure the costs meet requirements of the FNS Instruction and the quality of the meal service is not jeopardized by using Program funds towards wellness efforts. Materials and supplies used by the CE and individuals for non-Program use purposes are unallowable.

- The cost of supplies, such as seeds, fertilizer, watering cans, rakes, etc., to grow food that will be used as part of a reimbursable meal and for nutritional education activities.

- Costs related to the purchase of potable water or water filtration equipment – see "other costs" for additional guidance.

- Rental costs
  - The cost of vehicles and equipment owned by a third party or parties that are leased by the CE for Program purposes when properly procured and a bona fide arms-length written rental agreement exists. Related party transactions and other factors are subject to additional requirements and cost limitations. See FNS Instruction 796-2, #36 for further information.

Purchased Services

- The cost of services, excluding professional services, required for Program purposes and not included in other cost categories, such as maintenance, repair or upkeep of food service equipment that neither adds to its permanent value or prolongs its expected useful life but keeps it in an efficient operating condition, provided the cost was incurred in arms-length transactions, costs of utilities, purchased security and janitorial services, etc. not included in labor and with specific prior written approval, the cost of all services obtained through less-than-arms-length transactions, maintenance and service repair contracts on Program equipment and all other purchased service costs needed for Program operations.

  NOTE: Costs that prolong expected useful life of equipment or facilities, any share of purchased service costs incurred for non-Program purposes and less-than-arms-length transactions that are not fully disclosed are unallowable.

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Financial Costs

- Accounting costs
  - The cost of establishing and maintaining accounting and other information systems required for the management of this Program. Costs incurred to meet or maintain the organization's incorporation or nonprofit status is unallowable.

- Bonding costs
  - The cost of the Performance bond required by TDA for new sponsoring organizations and the cost of premiums of bonds covering employees that handle Program funds. The cost of bonding for general administrative staff, officers or individuals not responsible for handling Program funds is unallowable.

- Other financial costs
  - The cost of bank service fees for Program accounts including the Program share of fees for commingled accounts, for check printing and routine account servicing charges.
  - With specific prior written approval, stop payment charges for site advance and reimbursement payments and other disbursements; Program account reconciliation and analysis fees, including the allocated share for commingled accounts; interest incurred on organizational debt used to acquire or replace equipment or other property or make allowable improvements. See FNS Instruction 796-2 #22 for more information and the list of unallowable financial costs.

Media Costs

- Advertising and public relations costs
  - The cost of advertising media to solicit bids for (1) the procurement of Program goods and services; (2) recruitment of personnel for the Program; (3) disposal of scrap or surplus materials acquired in the performance of the Program; and with prior written approval the advertising and public relations costs for pamphlets, news releases and other information services to (a) inform individuals, groups or the general public about the CACFP; or (b) increase a CE's CACFP participation. The costs of fundraising for the purpose of meeting Program objectives are allowable with FNS Regional Office approval. Advertising and public relations costs to advertise or solicit non-Program related business is unallowable.

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- Communications
  - The cost of supplies, equipment and services used for Program operations, such as cellular phone, data plans, mobile hotspots, air cards, and internet charges. All costs in this category require specific prior written approval. Supplies, equipment and services that are transferred to or owned by officers, trustees, directors, consultants or employees and supplies and services used for non-Program purposes regardless of ownership are unallowable.

- Publication, printing and reproduction
  - The cost for in-house and outside publication and printing not included in other cost categories, such as publication, printing and reproduction of materials related solely to the Program or the allocable share of direct costs when both Program and non-Program purposes are benefited.
  - The cost of publication, printing and reproduction of materials related to wellness efforts, including the promotion of physical activity and limiting the use of electronic media may be an allowable cost, if the CE or site has determined the free materials provided by USDA are not sufficient and as long as the materials develops emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media; and the costs for the materials are reasonable, necessary and allocable as to their content in relationship to CACFP requirements. CEs must ensure the costs meet requirements of the FNS Instruction and the quality of the meal service is not jeopardized by using Program funds towards wellness efforts.
  - Publication, printing and reproduction costs included in other cost categories and costs for non-Program related purposes are unallowable.

Contracting Organization Costs

- Administrative appeal costs
  - The cost for appeals pursuant to the CACFP regulations and include, in-house or properly procured private counsel; professional services such as an accountant or consultant, administrative or clerical services; and costs of directly related services provided by the CE's employees, officers and trustees not otherwise claimed as labor. Costs for civil, legal or other proceedings are unallowable, including the costs of pursuing a judicial review of a decision rendered by a hearing official in a CACFP hearing.

- Legal expenses and other professional services
  - The sponsoring organization's cost to pursue administrative or judicial recovery of funds due from sponsored sites when the costs are reasonable in relation to (a) the amount of funds due; and (b) the amount of the funds that can reasonably be expected to be recovered.

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- The CE's cost for services performed by individuals who are not officers, employees or members of the CE when (a) the services are required in the administration of the Program; (b) the costs are reasonable in relation to the services provided; (c) the services have been properly procured; (d) the terms of the contractual arrangement are adequate for the services required; and (e) the costs are not contingent upon recovery of Program funds. The costs to maintain legal staff to discharge general responsibilities, and the costs incurred in connection with organization and reorganization are unallowable.
- The cost of water testing services - see "other costs" for additional guidance.
- These costs require specific prior written approval.

- Meetings and conferences
  - The cost for travel and registration fees to attend CACFP Federal, State, local, national or regional conferences. Travel and registration fees to attend meetings or conferences for which CACFP is only a portion of a larger child and adult care related agenda require specific prior written approval. Travel for meetings and conferences, hosting meetings and conferences are unallowable.

- Membership, subscriptions, and professional organization activities
  - The cost for membership is civic, business, technical and professional organizations and subscriptions to professional and technical periodicals related to the Program.
    - With specific prior written approval of Food and Nutrition Service Regional Office (FNSRO), the cost public or nonprofit organizations memberships in civic or community organizations.
    - With specific prior written approval, membership in discount warehouse buying clubs when the membership will be used strictly for the CE and will save the Program money.
    - Costs of individual memberships in professional organizations, for-profit organizations memberships in civic or community organizations, all other costs of membership in allowable organizations and individual or personal subscriptions are unallowable.

- Participant training and other participant support costs
  - The cost of training, including materials and supplies, meals, lodging, travel, speaker fees, child care services, substitute employees to cover Program duties for employees required to attend training. These costs can be operating or administrative, reference FNS Instruction 796-2 #30 for specifics. The cost of training on wellness efforts, including the promotion of physical activity and limiting the use of electronic media may be an allowable meeting and conference cost.

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- CEs must ensure the costs meet requirements of the FNS Instruction and the quality of the meal service is not jeopardized by using Program funds towards wellness efforts. Motivational speakers, social events, entertainment, flowers, etc. are unallowable.

- Travel
  - The cost of Program travel. Reference FNS Instruction 796-2, #39 for the various allowable forms of travel costs, including those that are unallowable.

Unaffiliated Facility Costs (Sponsoring Organizations Only)

This includes the total anticipated annual CACFP reimbursement that will be earned by unaffiliated sites.

Other Costs

This includes any other costs associated with the nonprofit food service, including indirect costs.

- Contribution and donation costs
  - The cost required to make goods or services donated to the institution usable for the Program. Cash and the value of noncash contributions and donations made by the CE to others are unallowable.
  - These costs require specific prior written approval.

- Criminal and civil proceedings, claims, and appeals
  - This does not include administrative appeal costs as detailed above. See FNS Instruction 796-2, #11 for specifics related to these costs.
  - These costs require FNSRO approval.

- Employee Morale, Health, and Welfare Costs and Credits
  - These costs may be allowable when not included in labor costs as part of the organization's written compensation policy. See FNS Instruction 796-2, # 14 for specifics related to these costs.
  - These costs require specific prior written approval.

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- Insurance
  - The cost of
    (1) insurance required by TDA (currently TDA does not have any insurance requirements),
    (2) with specific prior written approval
      (a) cost of other insurance maintained by the CE in connection with the general activities of the Program;
      (b) cost of insurance or contributions to any self-insurance reserve covering the risk, loss or damage to Federal Government property to the extent that the CE is liable for such loss or damage;
      (c) cost of insuring the lives of Directors and officers provided that (i) the insurance policy actually provides liability coverage related to the CACFP; and (ii) if the insurance policy also provides coverage for non-CACFP liability, the CACFP share of the cost is properly allocated;
      (d) contributions to a reserve for self-insurance to the extent that the reserve meets State insurance requirements and the type of coverage, extent of coverage and the rates and premiums would have been allowed had insurance been purchased from a commercial provider to cover the risks.
  - Insurance costs for non-Program activities and the cost of actual losses that could have been covered by permissible insurance through the purchase of insurance or an approved self-insurance plan are unallowable.

- Lobbying and Advocacy Costs
  - The cost of
    (1) responding to a documented request made by a member of Congress or the State legislature, a legislative body or subdivision or a cognizant staff member thereof for a technical or factual presentation of information on a topic directly related to the performance of the Program;
    (2) travel lodging and meal costs for individuals offering testimony at a regularly scheduled congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing;
    (3) lobbying to influence State legislation that would directly reduce the CE's Program costs or avoid a material impairment of the CE's authority or ability to fulfill Program requirements; and
    (4) legislative liaison activities when the activities are not carried on or in support of, or in preparation for prohibited lobbying activities.
  - See FNS Instruction 796-2, #25 for the list of unallowable costs as well as disclosure requirements.

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- Management Studies
  - The cost of studies directly related to the Program that is performed by entities other than the CE itself. Costs for studies conducted by the organization's officers, employees, or family member, thereof and the cost of studies for non-Program purposes are unallowable.
  - These costs require specific prior written approval.

- Proposal costs
  - The cost of preparing proposal submissions for FNS Child Nutrition Program grants or projects. The cost of preparing applications in other FNS Programs or preparing all other grant applications and proposals is unallowable.
  - These costs require specific prior written approval.

- Records retention
  - The cost for supplies, storage and maintenance of records necessary for Program administration.

- Taxes
  - The cost of taxes or payments in lieu of taxes that the CE is legally required to pay as a result of operating the Program. Refer to FNS Instruction 796-2, #37 for the list of unallowable taxes.

- Water
  - The purchase of potable water, water testing or equipment to filter water may be allowable costs to ensure potable water is available to Program participants. A requesting CE must submit documentation to demonstrate that a) it has sufficient funds, b) it is lacking in capital improvement funding, and c) the expense is necessary to carry out the mission of the Program.

7410 Operating Costs

Operating costs are allowable expenses for serving meals to eligible participants in eligible sites.

Examples of operating costs include:

- Food;
- Food service labor;
- Nonfood supplies; and
- Food service equipment.

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All CEs (sponsors and independent) must compute the cost of food used in the nonprofit food service. FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Progra*m Exhibit B provides guidance on computing the cost of food, food inventory and food purchases.

7420 Administrative Costs

Administrative costs are limited to the organization's allowable expenses for planning, organizing, and managing the Program.

Examples of administrative costs include salaries, wages, fringe benefits, etc. to accomplish the following:

- Reviewing and submitting site applications to TDA for Program participation approval;
- Reviewing and approving *CACFP Meal Benefit Income Eligibility Forms*;
- Providing training for CE staff and sponsored sites; and
- Conducting monitoring visits to sponsored sites.

7430 Income to the Program

All income to the Program must be retained and used only in the Program food service.

There are two types of income to the Program: Program income and other income.

Program income is the gross income earned from activities supported by the Program, and includes, but is not limited to:

- Participants' payments for meals in contracting entities which operate pricing Programs.
- Payments received from food sales to adults when the cost of the adult meal is not deducted from total operating costs.
- Proceeds from the disposition of real and nonexpendable personal property acquired with Program funds.
- Royalties and other income earned from the sale or licensing of copyrighted work developed under the Program.

Other income includes other funds that result from Program operations or are applied to Program operations. Examples include:

- Cash donations specifically earmarked for use in the Program food service.
- Interest earned on advance administrative or meals service funds and site pass through funds that can be retained by the CE.
- Funds received from the sale of unused or unneeded supplies purchased with Program funds.
- Revenue from the sale of food grown in the CE's CACFP funded garden.

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Income to the program may not be used to pay unallowable costs in the CACFP. For example:

- Incentives and bonuses provided to sites to participate in the program.
- Training related to, but not required for program participation, such as training to maintain licensing/certification requirements.

The receipt of all funds related to the CACFP, including grants, donations, and loans, regardless of their source, must be documented in writing.

All loans must satisfy TDA financial management system requirements including, but not limited to, the following criteria:

- A written agreement specifying the terms and conditions of the loan, including a repayment schedule, must be signed by both parties.
- Loans may not be entered into retroactively.

EXAMPLE: A donation or grant may not be converted to a loan agreement after the fact.

- Interest accrued on the loan is not an allowable program cost.

7440 Depreciation and Direct Expensing

Depreciation

Depreciation is the allocation of the cost of acquiring or materially improving a capital asset, to all accounting periods (fiscal years) whose Program operations benefit from the CE's use of the asset. Capital assets include tangible property such as buildings, furniture, motor vehicles, and other equipment; and certain intangible property such as computer software. Land is a capital asset but can **never** be depreciated.

Depreciation is based on the asset's acquisition cost, expected useful life, the costs of improvements or alterations that materially increase the value or prolong its useful life, and the asset's depreciable cost.

Whether privately or publicly owned, buildings can be depreciated using 30-year straight-line, or the depreciation method used and accepted for federal income tax reporting purposes. In addition, the acquisition cost upon which depreciation is based must exclude the value of land. Any other depreciation method requires specific prior written approval from TDA.

The organization may use either 15-year straight-line depreciation (five years for ADP equipment and vehicles) or the depreciation method used and accepted for federal income tax reporting purposes. Any other depreciation methods require specific prior written approval.

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All depreciation charged to the program must be documented through depreciation records indicating the amount of depreciation taken each period and, when appropriate, prorated between program and non-program use.

Direct Expensing

Direct expensing means charging a capital expenditure as a direct cost to the CE's nonprofit food service account at the time the items are purchased or improvements are made. Direct expensing requires specific prior written approval.

See FNS Instruction 796-2, #13 & 16 for specifics related to these costs, including documentation requirements and unallowable costs.

7450 Donations

Donations, such as food, building use, services, and labor are not considered Program income.

However, a CE must maintain and make available documentation of each donation to demonstrate how it manages the Program on the CACFP reimbursement. CEs that submit a budget that does not reflect an acceptable level of food costs to support the number and type of meals it intends to claim should submit this documentation with the application to explain the discrepancy.

7460 Net Costs

Net costs are a CE's total operating costs minus income to the program. A CE's CACFP reimbursement may not exceed its net costs.

EXAMPLE: A CE's reimbursement is $10,000 per year. Records support costs of $11,000 with $1,000 income. Since the net costs ($11,000 - $1000) and CACFP payments are the same, the CE has shown that the program is nonprofit.

TDA is able to observe a CE's daily operation of the CACFP only in the course of administrative reviews and audits. Therefore, TDA must rely on the records a CE keeps to determine compliance with CACFP standards and the amount of reimbursement to which the CE is entitled.

If a CE's records do not support its eligibility or the eligibility of its sites or claims for reimbursement, the CE will be required to repay any amounts paid improperly.

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7470 Documentation Requirements

CEs and sites must keep records of costs to show that the food service is nonprofit.

Documentation requirements when including costs in the budget vary depending on the cost category. CEs and sites must reference FNS Instruction 796-2 for specific documentation requirements when requesting budget approval.

Examples of required documentation include:

Food cost records

- Procurement documents, including bids and contracts;
- Purchase orders;
- Delivery receipts;
- Receipts
  - Handwritten receipts, such as those from Farmers' Markets are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- Invoices;
- Canceled checks;
- Itemized cash receipts;
- Purchase records;
- Credits, returns, and rebates; and
- Inventory records.

If a CE or site purchases prepared meals from a vendor, such as a food service management company, the CE or site must keep delivery slips from each delivery. The CE or site must verify the count and counter-sign the delivery notice.

Documentation requirements for labor costs include:

- An established and maintained written compensation policy for every element of compensation charged to the nonprofit food service. At a minimum, the written compensation policy must identify: (a) rates of pay; (b) hours of work, including breaks and meal periods; and (c) the organization's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay, and payroll tax withholding. The written compensation policy and approved budget must be in agreement for labor costs to be allowable.

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- Time and attendance reports for all labor costs. These reports must identify the total time actually worked by the employee and not just the time spent on nonprofit food service activities. At a minimum, these reports must include (a) start time; (b) end time; and (c) absences.
- Time distribution reports if the employee works on more than one Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two or more indirect cost activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity. To establish the portion of costs that may be claimed as labor, a daily log or time distribution method must be used. Time distribution reports must be:
  - Completed by employee and accounts for the total activity for which the employee is compensated;
  - Prorated by the amount of time spent on nonprofit food service activities;
  - Completed for each employee separately;
  - An after-the-fact determination of the actual activity of each employee; and
  - In intervals no less than every 15 minutes.
  - In addition, the report for proprietary and nonprofit organizations must be compiled at least monthly and coincide with one or more pay periods. For public organization employees who work only in the nonprofit food service, certifications completed at least every six months can be substituted for time distribution reports. Budget estimates and time studies of any kind are not acceptable documentation.
- In all cases, time and attendance and time distribution reports must be completed by the employee and signed and certified as true and correct by the employee and a responsible supervisor.
- Payroll records. At a minimum, a record for each employee containing:
  - Employee name;
  - Employee identification number;
  - Rate of pay;
  - Hours worked;
  - Benefits earned;
  - Any reductions or increases to the employee's base compensation, e.g., overtime pay, incentive award, etc.;
  - Gross pay;
  - Net pay;
  - Date of payment to employee;
  - Method of payment, i.e., check, cash, Electronic Funds Transfer (EFT); and
  - Verification that the employee has been paid, i.e., canceled checks or EFT deposit verification. For cash payments, an original signature certifying receipt of payment is required.

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Documentation of mileage expenses include records of:

- The date of each trip.
- The driver's name.
- The mileage.
- The origin and destination of each trip.
- Parking costs.
- The reason for each trip.

CEs may develop their own travel form containing these elements.

Documentation of donations must include, at a minimum, (1) date of donation; (2) description of donation (i.e., non-fat milk); (3) amount of donation (i.e., gallon, half-gallon, pints).

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Section 8000
Denials, Terminations, and Appeals

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made this Program Year will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
11-28-2022	Consolidated content from Section 8000 of all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A
11-28-2022	Added missing item to list of TDA actions that CEs can appeal	8311
11-28-2022	Clarified that termination by mutual consent will only be granted if no issues have been identified as part of a risk assessment or closeout review	8212
11-28-2022	Updated the Texas Administrative Code citation for where to locate CACFP appeal procedures	8312
11-28-2022	Clarified that a DCH sponsor's appeal official has 60 days to issue a decision on a provider's appeal.	8322

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8000
Denials, Terminations, and Appeals

8100 Denials

TDA will deny an application and may terminate the Permanent Agreement if it is determined at any time that an applicant or Contracting Entity (CE):

- Submitted false information to TDA, including but not limited to, a determination that the CE has concealed a conviction for any activity that occurred during the 7 years preceding their application and that indicates a lack of business integrity. A lack of business integrity includes, but is not limited to, fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.
- Failed to return an advance payment that exceeds the amount earned for serving approved meals or an unearned reimbursement.
- Failed to maintain required records.
- Claimed reimbursement for meals that did not meet meal pattern requirements.
- Claimed reimbursement from multiple programs for the same meal served to the same participant or claimed a participant more than once per individual meal in the CACFP (concurrent participation).
- Claimed reimbursement for meals that were not served to participating children or adults.
- Has an outstanding or unresolved single audit.
- Failed to comply with procurement standards or contract requirements.
- Has defrauded the CACFP.
- Failed to complete a corrective action, as detailed in a corrective action plan.
- Permitted a member of the organization's governing body, an agent, a consultant, or an employee who has been convicted of a fraudulent activity, to engage in any activity related to the administration of the CACFP.
- Has been determined to be seriously deficient in the ability to comply with requirements in the CACFP and placed on the National Disqualified List (NDL).
- Has been determined to be seriously deficient in the ability to comply with requirements in any other Child Nutrition Program (CNP) and been disqualified or excluded from participation in that Program.
- Sponsors the participation of a site or provider that was terminated for cause or declared seriously deficient and placed on the National Disqualified List or Texas Excluded SFSP List.
- Failed to submit a complete and correct application within the specified time.
- Failed to meet basic eligibility requirements as defined in Section 2000 of this handbook.

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- Did not disburse payment to sponsored sites or providers according to the CE's management plan, and in compliance with requirements.
- Failed to submit a balanced and reasonable budget.
- Failed to operate the CACFP in conformance with the requirements specified in the application, including fiscal accountability demonstrated through compliance with financial management standards contained in FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.
- Used a Food Service Management Company (FSMC)/vendor that is in violation of health codes.
- Failed to properly train or monitor sponsored sites.
- Failed to perform financial and administrative responsibilities.
- Engaged in any other action affecting the CE's ability to administer the CACFP in accordance with requirements as stated in this handbook and the Permanent Agreement.

If an organization's application is denied, TDA will notify the organization, in writing, of the specific reason for denial. The organization has the right to appeal the denial of its application. See Item 8311 for other actions subject to appeal.

NOTE: If an organization's application is denied, it may reapply at any time.

8200 Terminations

8210 Contracting Entity Termination

The Permanent Agreement may be terminated in whole or in part. A termination "in part" applies to situations where a CE participates in more than one CNP and withdraws from or is determined to be ineligible for at least one but not all of the programs.

If a CE is determined to be ineligible to participate in a CNP as a result of serious deficiency in the ability to comply with requirements, its Permanent Agreement must be terminated "in whole." Meaning participation in all CNPs would be terminated, if applicable.

TDA must terminate a CE's Permanent Agreement if the CE:

- Ceases to be eligible for the CACFP (i.e. loses tax exempt status);
- Is disqualified from the CACFP in another State or by USDA Food and Nutrition Service (FNS);
- Is disqualified from the CACFP by TDA;

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- Is disqualified or excluded from participation in another CNP by TDA, another State, or USDA FNS; or
- Any other action affecting the CE's ability to administer the CACFP in accordance with the Program Agreement.

8211 Failure to Renew

Although CEs enter into a Permanent Agreement with TDA to operate the CACFP, they must still submit specific information annually to renew participation. If a CE notifies TDA in writing that it does not intend to renew its participation in the CACFP, its Permanent Agreement will be amended (if the CE participates in more than one component of the CACFP or another CNP) or terminated by mutual consent, as appropriate.

However, a CE will be placed in the serious deficiency process if it begins the renewal process and fails to:

- Submit all required documentation or information;
- Correct submitted information or submit additional information as requested by TDA; or
- Notify TDA that its failure to complete the renewal process is because it has decided to withdraw from the CACFP and/or terminate its Permanent Agreement.

8212 Termination by Mutual Consent

TDA and a CE may mutually consent to terminate the Permanent Agreement at any time.

Termination by mutual consent generally occurs as a result of the CE's decision to withdraw from the CACFP and can occur at any time during the program year, including at the time of renewal. TDA will not agree to termination by mutual consent if there are any operational issues discovered as part of a risk assessment or closeout review.

NOTE: Termination by mutual consent is not an adverse action. Therefore, a CE cannot appeal this termination.

8220 Day Care Home Provider Termination

Providers who have been terminated for cause, disqualified from participation in the CACFP, or excluded from participation in the Summer Food Service Program are ineligible to participate in the CACFP. USDA maintains the National Disqualified List and TDA maintain the Texas Excluded Summer Food Service Program List (TEXSL).

The *Provider Application – Day Care Homes and Permanent Agreement Between Sponsor and Day Care*

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Home Provider(s) (H1542) defines the relationship between the CE and a provider. If one of a CE's providers is seriously deficient in his or her ability to comply with CACFP requirements, the CE is responsible for placing the provider in the Serious Deficiency Process.

NOTE: Refer to Section 10000 for procedures related to the Serious Deficiency Process.

8300 Appeals

A CE may only request an appeal of certain adverse actions. An adverse action is an action that denies or reduces CACFP benefits to the CE. The lists below detail which actions can and cannot be appealed.

8310 Contracting Entity Appeals

8311 Actions Subject to Appeal

A CE has the right to appeal:

- Denial of a new or renewal application.
- Denial of a sponsored site or provider's application.
- Proposed termination and proposed disqualification.
- Suspension of participation (due to imminent threat to health or safety or submission of false or fraudulent claims).
- Denial of start-up or expansion funds
- Denial of advances.
- Recovery of advances (demand from TDA for repayment of advances not covered by claims submitted or due to non-claiming for the month(s) of the advance(s)).
- Denial of all or part of a claim, except the denial due to late submission.
- TDA's denial to submit the CE's request for a good cause exception to the United States Department of Agriculture (USDA) for consideration of payment.
- Overpayment demand.
- Other actions taken by TDA, which affect the CE's participation or claim for reimbursement.

A CE may not appeal:

- USDA denial of a claim.
- Determination of serious deficiency.
- Determination that corrective action is inadequate.
- Disqualification and placement on the NDL.
- Termination of a participating organization's Permanent Agreement as a result of the Serious Deficiency Process, including termination based on the disqualification of that

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organization by another State agency or USDA.
- Denial of removal from the NDL.
- TDA's refusal to consider the application of an organization when the organization or one of its principals is on the NDL.
- TDA's refusal to consider the application submitted on behalf of a sponsored site or provider when the site or provider or one of its principals is on the NDL.
- Termination by mutual consent.

8312 Appeal Process

Requests for an appeal must be received by TDA within 15 days of receipt of notification of an adverse action. The appeal must:

- Be in writing;
- State the basis for the appeal of the adverse action;
- Include a legible copy of the adverse action letter.

If there is a request for an in-person hearing, the request must be submitted at the time the written appeal is filed. If a written hearing request is not included in the appeal, the CE waives the right to a hearing and the appeal will be decided upon review of the documents in the record, unless the Administrative Review Official (ARO) determines that the failure to make a timely request was due to circumstances beyond the control of the appellant.

TDA has the discretion to refer a request for a hearing to the State Office of Administrative Hearings (SOAH) for resolution. Should the CE wish to have a hearing held by the State Office of Administrative Hearings (SOAH), the CE must make that request at the time of the written appeal.

The appeal must be mailed or faxed to:

FOOD AND NUTRITION APPEALS
TEXAS DEPARTMENT OF AGRICULTURE
LEGAL DIVISION
ATTN: DOCKET CLERK
PO BOX 12847
AUSTIN, TEXAS 78711
FAX (800) 909-8530

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The appeal may behand-delivered or submitted via overnight/special delivery service to the following street address:

TEXAS DEPARTMENT OF AGRICULTURE
LEGAL DIVISION
1700 NORTH CONGRESS, 11TH FLOOR
AUSTIN, TEXAS 78701

The rules regarding the appeal procedures for CACFP are found in Title 4 of the Texas Administrative Code, Part 1, Chapter 26, Subchapter E.

NOTE: Any documentation a CE wants to have considered for the appeal must be submitted within 30 days of receipt of an adverse action. The CE can submit the document with the request for an appeal, or separately.

CEs that wish to confirm receipt of their appeal request may contact the Legal Division at (512) 463-4075.

EXCEPTION: CEs that want to appeal an adverse action that was based on the findings of a federal audit or review must submit a written request to USDA at:

ADMINISTRATIVE REVIEW DIVISION
USDA – FNS RM. 523
3101 PARK CENTER
ALEXANDRIA, VIRGINIA 22031

The USDA Administrative Review Division must receive the request for an appeal within 15 days after the CE's receipt of notification of adverse action. CEs must include a copy of the adverse action notification received from USDA, or from TDA, acting on behalf of or as directed by USDA, as applicable.

8320 Day Care Home Provider Appeals

8321 Actions Subject to Appeal

Providers have the right to appeal any actions taken which adversely affects their participation in the CACFP or claims for reimbursement, including:

- Denial of the *Provider Application – Day Care Homes, and Permanent Agreement Between Sponsor and Day Care Home Provider(s)* (H1542).
- Full or partial denial of a provider's claim for meals.

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- Denial of a resident child's eligibility to participate in the CACFP.
- Denial of Tier I reimbursement status.
- Notice of Proposed Termination and Disqualification, which is part of the Serious
- Deficiency Process.
- Termination of the provider's participation (does not apply to termination by mutual consent or as a result of the serious deficiency process).

8322 Day Care Home Provider Appeal Process

A CE must establish one uniform appeal procedure for all providers under its sponsorship, and supply the procedures to a provider when it:

- Signs an application and agreement with the provider, and yearly after that.
- Takes an action which adversely affects the provider's participation in the CACFP or claims for reimbursement.
- Any other time, upon request.

NOTE: An adverse action is any action that denies or reduces program benefits to the provider.

The CE's appeal procedures must:

- Provide the name and address of the independent and impartial appeals official to whom the provider must send a written request for an appeal.
- Inform the provider that a request for an appeal must be received by the appeals official within 15 days of receipt of a notification of adverse action.
- Specify that the provider may request a review of the written documentation only or request an in-person hearing (this may be via telephone).
- State that the appeals official will acknowledge receipt of the provider's request for an appeal within 10 days of receipt.
- Inform the provider that the appeals official will notify the provider and CE of the hearing date a minimum of 10 calendar days prior to the hearing if the provider requested an in-person hearing.
- Inform the provider that written documentation they want considered must be received by the appeals official within 30 days of receiving the notification of adverse action.
- Advise the provider that they may retain legal counsel or representation.
- Inform the provider that failure to appear for a scheduled hearing (either in-person or via telephone) will result in a decision being based solely on written submission, and the provider waives their right to a hearing. (NOTE: The appeals official may reschedule at their discretion).
- Inform the provider that the appeals official will rule on the action within 60 days of

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receiving the request and will provide the provider and CE written notification of the decision.

- Inform the provider that the appeals official's decision is the final administrative determination to be afforded to the provider.

Each adverse action notification must be sent by United States Postal Service (USPS) certified mail, return receipt requested*, and a second copy of the notification by regular mail, for example, standard USPS first-class mail. CEs must advise the provider of the above appeal procedures in each notification that contains an adverse action.

* CEs may submit an alternate procedure for documenting the date that a provider is notified of his/her right to appeal. Approval must be received from TDA prior to using an alternate procedure.

The procedure must clearly demonstrate how the CE will:

- Document that the notification was sent.
- Confirm that the provider received the notification.

Once a provider is notified of an adverse action, the CE must allow the provider a 30-day window to review the materials upon which its action was based. If the provider requests a written review or an in-person hearing, the CE must send the provider a copy of the documentation it submits to the appeals official. However, if the provider requests this information prior to requesting a written review or in-person hearing, the CE must give the provider a copy.

The appeals official must allow the CE and the provider or the provider's designated representative to attend the hearing to provide testimony, rebut the testimony of others, and answer questions posed by the appeals official.

When ruling on an appeal, the appeals official must:

- Determine whether the actions taken by the CE followed Federal and state requirements;
- Consider the testimony provided by the CEs representative and that of the provider or the provider's designated representative (if in-person/telephone hearing); and
- Consider the written documentation received by the CE and provider.

The appeals official may not:

- Interpret the intent or expand the meaning of the Federal regulations and state rules

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and policies;
- Validate the serious deficiency determination (if the provider has been determined seriously deficient);
- Verify whether corrective actions submitted by the provider fully and permanently corrects the non-compliances; or
- Establish a settlement of demands for overpayments.

CEs should provide the appeals official copies of all handbooks, materials, and guidance provided by TDA, and offer training to the appeals official or invite the appeals official to training provided to staff and/or providers to assist in familiarizing the appeals official with the CACFP requirements.

Within 60 days of receiving a provider's request for appeal, the appeals official must rule on the appeal and notify the CE and the provider of the final ruling.

The CE's actions remain effective throughout the appeal process. However, the provider can continue to participate while appealing a termination, unless the termination was based on an imminent threat to the health or safety of a child or children in care, or the public health or safety. If a provider continues to participate while appealing a termination and the CEs action is upheld, the provider will not be reimbursed for any meals that they serve during the appeal process.

If the CE's action is reversed, it must submit an adjusted claim to TDA within 15 calendar days of notification of the reversal. The provider must be reimbursed within five working days of the CE receiving payment.

If the CE's action is overturned and an adjusted claim is not required, the CE must pay the provider any reimbursement to which he/she is entitled within five calendar days of the notification of reversal.

If the CE's action is upheld, the effective date of termination is the date in the CE's original notification.

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Section 9000
Terms, Definitions and Acronyms

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9000
Terms, Definitions and Acronyms

9100 Terms and Definitions

Accountable – The new or renewing contracting entity has in place internal controls to assure that Program funds for meals and administrative expenses are properly spent.

Administrative Costs – Costs incurred by a contracting entity related to planning, organizing, and managing a food service under the Program, and allowed by TDA.

Administrative Review Official – The independent and impartial official who conducts a fair hearing or an appeal.

Administratively Capable – The new or renewing contracting entity has documented it has the staffing and expertise to meet all of the Program's requirements.

Advance Payments – Financial assistance made available to a contracting entity for its Program costs prior to the month in which such costs will be incurred.

Affiliated Site – A site that is part of the same legal entity as the contracting entity. For-profit contracting entities may only sponsor affiliated sites.

Aggregate – The whole sum or amount (i.e., the total meal count by types for any day).

Agreement – An understanding between two or more parties that is duly executed and legally binding.

Alternate Form – A form developed by an entity other than TDA to be used in place of a TDA form.

Annually – Once during each Program Year.

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Appeal – The fair hearing provided upon request to:

a) A contracting entity that has been given notice by the TDA of any action or proposed action that will affect the contracting entity's participation or reimbursement under the Program; and

b) A principal or individual responsible for a contracting entity's serious deficiency after the responsible principal or responsible individual has been given a notice of intent to disqualify them from the Program.

At-risk Afterschool Care Center – A public or private nonprofit organization that is participating or is eligible to participate in the CACFP as a contracting entity or as a sponsored site and that provides nonresidential child care to children after school through an approved afterschool care program located in an eligible area. However, an *Emergency shelter,* may participate as an at-risk afterschool care center without regard to location.

CACFP – The Child and Adult Care Food Program.

Center – A child care center, an at-risk afterschool care center or an outside-school-hours care center. Centers are also referred to as "sites".

Child Care Center – Any public or private nonprofit center, or any for-profit center that is licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age, including but not limited to day care centers, settlement houses, neighborhood centers, Head Start centers and organizations providing day care services for children with disabilities. Child care centers may participate in the Program as independent centers or as sponsored sites.

Child Care Site – A licensed or approved child care center, at-risk afterschool care center or outside-school-hours care center under the sponsorship of a contracting entity.

Children – Includes:
a) Persons age 12 and under;
b) Persons age 15 and under who are children of migrant workers;
c) *Persons with disabilities,* as defined in this section;
d) For emergency shelters, persons age 18 and under; and
e) For at-risk afterschool care centers, persons age 18 and under at the start of the school year.

Contract – A binding agreement where there is an "exchange of legal consideration" (i.e., legally enforceable).

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Contracting Entity – A sponsoring organization or an independent center that enters into an agreement with TDA to assume final administrative and financial responsibility for Program operations.

Days – Calendar days, unless otherwise specified.

Disabled Child/Infant – Any child or infant who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

Disqualified – The status of an organization or responsible principal or responsible individual that was declared seriously deficient and placed on the National Disqualified List.

Edit Check – A method of comparing information on a claim to other available information to determine the validity of the claim.

Egregious – A consistent flagrant or glaring violation of CACFP requirements

Eligible Area - For the purpose of determining the:

a) Eligibility of at-risk afterschool care centers, the attendance area of an elementary, middle, or high school in which at least 50 percent of the enrolled children are certified eligible for free or reduced-price school meals; or
b) Tiering status of day care homes, the area served by an elementary, middle or high school in which at least 50 percent of the total number of children are certified eligible to receive free or reduced-price meals, or the area based on census data in which at least 50 percent of the children residing in the area are members of households that meet the income standards for free or reduced-price meals.

Emergency Shelter – A public or private nonprofit organization or its site that provides temporary shelter and food services to homeless children.

Enrolled Child – A child whose parent or guardian has submitted a signed document that indicates that the child is enrolled for child care. Any child who could be in attendance, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child. For at-risk afterschool care centers, outside-school-hours care centers, or emergency shelters, the term "enrolled child" or "enrolled participant" does not apply.

Expendable Equipment – All equipment, other than nonexpendable equipment, with a useful life of less than one year.

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Financially Viable – The new or renewing contracting entity has the financial resources to meet all of the Program's requirements.

Firm Fixed-Price Contract – A contract in which the price paid the supplier is based on a lump sum or unit basis.

Fiscal Year – A period of 12 calendar months that constitutes as a contracting entity's accounting year.

Food component – One of the food groups that contribute to the reimbursable meal (example**:** vegetable/fruit).

Food item – One of the food servings that contribute to the reimbursable meal (example: two servings of vegetables or fruits, or one of each).

Food Service Management Company — An organization, other than a public or private nonprofit school, with which a contracting entity may sign a contract for preparing, and unless otherwise provided for, delivering meals, with or without milk, for use in the CACFP.

For-profit Center/Site – A child care center or outside-school-hours care center providing nonresidential care to children that does not qualify for tax-exempt status under the Internal Revenue Code of 1986. For-profit centers serving children must meet the definition of child care center or outside-school-hours care center, and one of the following conditions during the calendar month preceding initial application or reapplication (**exception** – children who only participate in the at-risk afterschool care center component of the Program must not be considered in determining the percentages below):

1) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) are eligible for free or reduced-price meals; or
2) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) receive benefits from title XX of the Social Security Act and the center receives compensation from amounts granted to the States under title XX.

Foster Child – An individual who is placed by an authorized placement agency or by judgment, decree or other order of any court of competent jurisdiction and is distinct from a "child" of the household.

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Free Meal – A meal served under the Program to a child from a family which meets the income standards for free school meals; or to a child who is automatically eligible for free meals by virtue of SNAP, FDPIR, or TANF recipiency; or to a child who is a Head Start, Early Head Start or Even Start participant; or to a child who is receiving temporary housing and meal services from an approved emergency shelter; or a child participating in an approved at-risk afterschool care center.

Frontloading – Conducting a majority of monitoring reviews early in the Program Year.

Governing Body – The elected or appointed members of an organization who jointly oversee the activities of the organization, sometimes referred to as the Board of Directors or Executive Board. In the case of for-profit organizations not required to have a Board of Directors, the Governing Body could consist of the owner or owners of the organization.

Income to the Program – Any funds used in a contracting entity's food service, except Program payments. Examples include, but are not limited to, funds from other government sources, children's payments for meals and food service fees, cash donations, and grants from organizations or individuals.

Independent Center – A child care center, emergency shelter, at-risk afterschool care center, or outside-school-hours care center, which enters into an agreement with TDA to assume final administrative and financial responsibility for Program operations.

Independent Governing Board of Directors – In the case of a nonprofit organization; or in the case of a for-profit organization required to have a board of directors, a governing board which meets regularly and has the authority to hire and fire the Organization's executive director.

Internal Controls – The policies, procedures, and organizational structure of a contracting organization designed to reasonably assure that:

a) The Program achieves its intended result;
b) Program resources are used in a manner that protects against fraud, abuse, and mismanagement and in accordance with law, regulations, and guidance; and
c) Timely and reliable Program information is obtained, maintained, reported, and used for decision-making.

Key Activities – Essential CACFP activities, as defined by F&N, performed to meet the requirements of the Program.

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Lactose Intolerance – A term used to describe the inability to digest or absorb lactose, a type of sugar found in milk and milk foods.

Licensed Physician – A person licensed to practice medicine. Licensed physicians include Doctors of Osteopathy.

Low-income Area – A geographical area in which at least 50 percent of the children are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program.

Major Life Activity – Includes, but not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

Meals – Food that is served to enrolled children at a center and which meets Program requirements. However, children participating in at-risk afterschool care centers, emergency shelters, or outside-school-hours care centers do not have to be enrolled.

Milk – Pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk that meet state and local standards. Milk must contain vitamins A and D at levels specified by the Food and Drug Administration (FDA).

National Disqualified List – The list, maintained by USDA, of organizations, responsible principals and responsible individuals disqualified from participation in the Program.

New Center – An approved center that has not begun participation in the Program either under a sponsoring organization or as an independent center.

Nonexpendable Equipment – All equipment with a useful life of more than one year.

Nonpricing Program – An organization, child care center, or adult day care center in which there is no separate identifiable charge made for meals served to participants.

Nonprofit Food Service – All food service operations conducted by the contracting entity principally for the benefit of enrolled children, and from which all of the Program reimbursement funds are used solely for the operations or improvement of such food service.

Nonresidential Site — A site that does not keep the same children for more than 24 hours on a regular basis.

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Operating costs – Expenses incurred by a contracting entity serving meals to children under the Program.

Participants – See "Children."

Participating Center – A center that claims meals for a given month is considered to be "participating in the Program for the claim month." This includes sponsored sites.

Personal property – Property of any kind, except real property. Property may be tangible (having physical existence such as fax machines, printers or copiers) or intangible (having no physical existence, such as patents, inventions and copyrights).

Persons with Disabilities - Persons of any age who have one or more disabilities, as determined by the State, and who are enrolled in an Organization or child care facility serving a majority of persons who are age 18 and under.

Potential Contracting Entity – A sponsoring organization or independent center applying to participate in the Program for the first time or applying to participate in the Program after a lapse in participation.

Pricing Program – An organization, child care center, or adult day care center in which a separate identifiable charge is made for meals served to participants.

Principal – Any individual who holds a management position within, or is an officer of, an Organization or a sponsored center, including all members of the Organization's board of directors or the sponsored center's board of directors.

Procurement – An orderly process of acquiring food, meals, equipment and other goods and services, whether by lease or purchase.

Program – The Child and Adult Care Food Program authorized by Section 17 of the National School Lunch Act, as amended.

Program Payments – Financial assistance in the form of start-up payments, expansion payments, advance payments, or reimbursement paid or payable to contracting entities for operating costs and administrative costs.

Program Year (PY) – A period of 12 calendar months beginning October 1 of any year and ending September 30 of the following year.

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Publicly Funded Program – Any program or grant funded by public funds including, but not limited to, federal, state, or local government funds.

Recognized Medical Authority – Includes licensed physicians, physician assistants and nurse practitioners.

Reimbursement – Federal financial assistance paid or payable to contracting entities for Program costs within the rates assigned by the USDA.

Renewing Contracting Entity – A sponsoring organization or independent center that is participating in the Program at the time it submits a renewal application.

Responsible Principal or Responsible Individual –

a) A principal, whether compensated or uncompensated, who TDA or USDA determines to be responsible for a contracting entity's serious deficiency;
b) Any other individual employed by, or under contract with, a contracting entity who TDA or USDA determines to be responsible for the serious deficiency; or
c) An uncompensated individual who TDA or USDA determines to be responsible for a contracting entity's serious deficiency.

Review Averaging – Conducting the same total number of annual monitoring reviews (three times the number of sponsored sites) by reviewing some sites twice a year and other sites three or more times per year.

Review Cycle – The period of time and the frequency with which sponsored sites must be reviewed.

Seriously Deficient – The status of a contracting entity that has been determined to be non-compliant in one or more aspects of its operation of the Program.

Site – A sponsored affiliated or unaffiliated child care center, Outside-School-Hours care center, At-risk Afterschool Care Center and emergency shelter.

Snack - A meal supplement that meets the meal pattern requirements.

Sponsoring Organization (Sponsor) – A *public or nonprofit private organization* that is entirely responsible for the administration of the food program in:

a) One or more day care homes;
b) A child care center, emergency shelter, at-risk afterschool care center, outside-school-hours care center, or adult day care center, which is a legally distinct entity from the sponsoring organization;

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c) Two or more child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, or adult day care centers; or
d) Any combination of child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, adult day care centers, and day care homes.

The term "sponsoring organization" also includes an organization that is entirely responsible for administration of the Program in any combination of two or more child care centers, at-risk afterschool care centers, adult day care centers or outside-school-hours care centers, which meet the definition of *For-profit center/site* and are part of the same legal entity as the sponsoring organization.

State Agency – The Texas Department of Agriculture (TDA).

State Agency List – The list, maintained by TDA, of organizations, responsible principals, responsible individuals and day care home providers disqualified by TDA from participation in the Child Nutrition Programs.

Temporarily Defer – To postpone the serious deficiency process until or unless it is determined that the serious deficiency or serious deficiencies were not fully and permanently corrected.

Termination by Mutual Consent – The termination of a contracting entity's Permanent Agreement by either the contracting entity or TDA due to considerations unrelated to either party's performance of Program responsibilities under the Agreement.

Termination for Cause – The termination of a contracting entity's Permanent Agreement by TDA due to the contracting entity's violation of the Agreement. Termination for cause also includes the termination of a sponsored site's agreement by the contracting entity due to the site's violation of its agreement with the sponsor.

Unaffiliated Site – A legally distinct entity from the sponsoring organization.

Unannounced Review – An on-site review for which no prior notification is given to the contracting entity or sponsored site.

USDA – The United States Department of Agriculture.

USDA Foods – Foods donated by the United States Department of Agriculture (USDA).

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9200 Acronyms

ADA	Americans with Disabilities Act
ADC	Adult Day Care
ADP	Average Daily Participation
ARO	Administrative Review Official
CACFP	Child and Adult Care Food Program
CAP	Corrective Action Plan
CCC	Child Care Center
CCFP	Child Care Food Program
CCMS	Child Care Management Services
CFR	(U.S.) Code of Federal Regulations
CN	Child Nutrition
CSFP	Commodity Supplemental Food Program
DFPS	(Texas) Department of Family and Protective Services
EHSP	Early Head Start Program
EIN	Employee Identification Number
ESP	Even Start Program
FCS	USDA Food and Consumer Service
FDA	Food and Drug Administration
FDP	Food Distribution Program
FND	Food and Nutrition Division
FNS	USDA Food and Nutrition Service
FSMC	Food Service Management Company
FY	Fiscal Year
F&N	Food and Nutrition
GAAP	Generally Accepted Accounting Principles
HSP	Head Start Program
HUB	Historically Underutilized Business
IFB	Invitation for Bid
IRS	U.S. Internal Revenue Service
ISD	Independent School District

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NDL	National Disqualified List
NGO	Non-Governmental Organization
NSLP	National School Lunch Program
OMB	Office of Management and Budget
PK	Pre-kindergarten
PNO	Private Nonprofit Organization
PY	Program Year
RDA	Recommended Dietary Allowance
RFP	Request for Proposals
SAE	State Administrative Expense
SBP	School Breakfast Program
SFA	School Food Authority
SFSP	Summer Food Service Program
SMP	Special Milk Program
SNAP	Supplemental Nutrition Assistance Program
SO	Sponsoring Organization
SSI	Supplemental Security Income
SSN	Social Security Number
TAC	Texas Administrative Code
TANF	Temporary Assistance for Needy Families
TDA	Texas Department of Agriculture
TDD	Telecommunications Display Device
TEA	Texas Education Agency
TMP	Total Monthly Participation
TX-ID	Texas Identification Number
TEXCAP	Texas Commodity Assistance Program
TX-UNPS	Texas Unified Nutrition Programs System
UCN	Uniform Contract Number
USDA	United States Department of Agriculture
USPS	United States Postal Service
WIC	Special Supplemental Nutrition Program for Women, Infants and Children

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Section 10000
Serious Deficiency

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made this Program Year will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
4-30-2024	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A
	Added new clarification about written notification procedures and consolidated redundant information about this topic into a new section.	10000
	Clarified that a sponsor's disqualification does not necessarily exempt that sponsor's sites from being placed in the serious deficiency process if TDA determines that the site's egregious issues were not the result of lack of training or oversight by that sponsor.	10510
	Added the online link to request early removal from the National Disqualified List.	10600

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Serious Deficiency

The serious deficiency process both ensures compliance with Program requirements while also allowing organizations, principals, and individuals an opportunity to correct serious deficiencies and continue participation in the Program.

10000 Written Notice during the Serious Deficiency Process

Throughout the serious deficiency process, TDA will send written notice as applicable to inform Contracting Entities (CEs) of corrective action and serious deficiency status. Examples of notices will include as applicable:

- Notice of Serious Deficiency
- Notice of Temporary Deferral of Serious Deficiency
- Notice of Intent to Suspend
- Notice of Proposed Termination and Proposed Disqualification
- Notice of Termination and Disqualification
- Notice of Suspension, Proposed Termination and Proposed Disqualification for Imminent Threat

Each of the above notices is described in more detail later in this chapter.

All notices will be provided to the organization's Executive Director, Chairman of the Board, and all applicable responsible parties/individuals. The Executive Director, responsible for the organization's day-to-day operations, and the Chairman of the Board of Directors (or equivalent), responsible for the organization's overall operation, may not always be directly responsible for a specific serious deficiency; however, by virtue of their positions, they have overall responsibility and accountability for the organization and will therefore be named as responsible principals. In absence of positions matching those title names, notices are sent to the highest official within the organization (i.e., owner).

Refer to Section 9000, *Terms and Definitions*, for a definition of responsible principal and responsible individual.

10100 Organizations Applying to Participate in the CACFP

10110 New Organizations

An organization that applies to participate in the CACFP as a new CE must submit a complete and correct application to be considered for approval.

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If it is determined that the organization has committed a serious deficiency in the application, TDA will take action to deny the application and disqualify the organization and any responsible principals and individuals who contributed to the serious deficiency.

The following items represent a serious deficiency in a new organization's application that could result in the denial of the application and placement of the organization and any responsible principals and individuals on the National Disqualified List (NDL):

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity. A lack of business integrity includes but is not limited to:
    - Fraud
    - Antitrust violations
    - Embezzlement
    - Theft
    - Forgery
    - Bribery
    - Falsification or destruction of records
    - Making false statements
    - Receiving stolen property
    - Making false claims
    - Obstruction of justice, or
    - Any other activity indicating a lack of business integrity.
- Any other action affecting the organization's ability to administer the CACFP in accordance with Program requirements.

Other examples of false information, actions, or documentation that affects the organization's ability to administer the Program include but are not limited to:

- Submission of false documentation in an attempt to receive reimbursement one month prior to participation; and
- Receipt of information, documentation, or statements that establish the organization will not be able to operate the Program as represented in its application.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:

- The identified serious deficiency(ies);
- The actions necessary to correct the serious deficiency(ies);
- The time allotted to correct the serious deficiency(ies);
- That the serious deficiency determination is not subject to appeal;

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- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in denial of the application and the disqualification of the organization and the responsible principals and responsible individuals;
- That the organization will not be paid for any claims for reimbursement for eligible meals served or allowable administrative expenses incurred until the organization has an approved application and fully executed permanent agreement;
- That if the organization withdraws its application after receiving this notice, the application will still be denied, and the organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL; and
- That, if TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of approvable corrective action.

Corrective Action Accomplished:

If the organization fully and permanently corrects the serious deficiency(ies) within the specified time frame, TDA will inform the organization and the responsible principals in writing that TDA has deferred its serious deficiency determination. The organization may then submit a new complete application.

NOTE: If the responsible principals or individuals have not corrected their contribution to the serious deficiency, TDA will continue with the disqualification process.

Disqualification:

TDA will proceed with disqualification and placement on the NDL if:

- The organization voluntarily withdraws its application after receiving the Notice of Serious Deficiency.
    - The CE will not receive appeal rights or further opportunity for corrective action if it voluntarily withdraws its application.
- The organization or responsible principals/individuals fail to fully and permanently correct the serious deficiency(ies) within the specified time frame.
- The organization or responsible principals/individuals fail to request an appeal within 15 days of receipt of the notice.
- The Administrative Review Official (ARO) upholds TDA's denial of the application and proposed actions.

If any of the above occurs, TDA will notify the organization, responsible principals, and responsible individuals of their disqualification and placement on the NDL.

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10120 Renewing Organizations

A CE that wants to continue participation must submit a renewal application each year that meets all CACFP application requirements.

If it is determined the CE has committed a serious deficiency in the renewal application, TDA will place the organization, responsible principals, and responsible individuals in the serious deficiency process.

Each of the following items represent a serious deficiency in a renewal application that could result in the denial of the application, termination of the Permanent Agreement, and placement of the organization, responsible principals, and responsible individuals on the NDL.

The items include, but are not limited to:

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity (see section 10110 above for examples).
- Failure to conform with regulatory performance standards:
  - Performance Standard 1 – Financial viability and financial management.
  - Performance Standard 2 – Administrative capability.
  - Performance Standard 3 – Accountability.
- Failure to comply with the bid procedures and contract requirements of the applicable federal procurement regulations.
- Use of a Food Service Management Company/vendor in violation of health codes.
- Failure to properly train or monitor sponsored sites or day care homes.
- Failure to perform any other required financial and administrative responsibilities.
- Submission of false claims.
- For day care home sponsors:
  - Failure to properly classify homes as tier I or tier II.
  - Failure to properly implement or administer the day care home termination and administration review (appeal) process.
- Any other action affecting the organization's ability to administer the CACFP in accordance with program requirements as stated in this handbook and the Permanent Agreement.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:

- The serious deficiency(ies);
- The actions to be taken to correct the serious deficiency(ies);
- The time allotted to correct the serious deficiency(ies);
- That the serious deficiency determination is not subject to appeal;

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- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in denial of the organization's application, the proposed termination of the Permanent Agreement, and the proposed disqualification of the organization and the responsible principals and responsible individuals;
- That if the organization voluntarily terminates its Permanent Agreement after receiving this notice, the organization's Permanent Agreement will be formally terminated and the organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL; and
- That, if TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of corrective action for the organization and/or individual.

Corrective Action Accomplished:

If the CE, responsible principals, and responsible individuals fully and permanently correct the serious deficiency(ies) within the specified time frame, they will receive notification that TDA has deferred its serious deficiency determination. The CE may then re-submit the renewal application. The CE may continue to submit valid claims for reimbursement during this process.

NOTE: If any responsible principal or individual has not corrected their contribution to the serious deficiency, TDA will continue its actions to disqualify those individuals.

Application Denial and Proposed Disqualification/Termination:

If the CE, responsible principals and/or responsible individuals do not fully and permanently correct the serious deficiency(ies) within the allotted timeframe, TDA will deny the renewal application, propose to terminate the Permanent Agreement, and propose to disqualify the CE, responsible principals, and/or responsible individuals from participation in the CACFP.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:
- That the organization's renewal application has been denied and TDA is proposing to terminate the organization's Permanent Agreement and disqualify the organization, responsible principals, and/or responsible individuals;
- The basis for the actions;
- That if the organization voluntarily terminates its Permanent Agreement after receiving this notice, the organization's Permanent Agreement will be formally terminated and the organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL;
- The procedures for appealing the renewal application denial and the proposed actions; and

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- That the organization may continue to participate in the Program and receive reimbursement for eligible meals served and allowable administrative costs incurred until its appeal is completed, if applicable.

Disqualification/Termination:

TDA will proceed with terminating the Permanent Agreement and disqualifying the CE, responsible principals, and individuals, and placing them on the NDL if the:

- CE voluntarily terminates its Permanent Agreement after receiving the *Notice of Renewal Application Denial and Proposed Termination and Proposed Disqualification*
    - The CE will not receive appeal rights or further opportunity for corrective action as it voluntarily terminated its participation.
- CE fails to fully and permanently correct the serious deficiency(ies) within the specified time frame.
- CE fails to request an appeal within 15 days of receiving the *Notice of Renewal Application Denial and Proposed Termination and Proposed Disqualification*.
- The ARO upholds TDA's denial of the renewal application and proposed actions if the CE appeals the actions.

If the CE requests an appeal and the ARO upholds TDA's determination, the termination of the Permanent Agreement will be effective the day of the ARO's decision.

If an appeal is not requested within 15 days of receipt of the Notice, the termination of the Permanent Agreement will be effective on the date provided in the notification.

10200 Participating Contracting Entities

During an audit, administrative review, or any time during a CE's program participation, it may be determined that serious non-compliances have occurred or are occurring. As a result, the CE, responsible principals, and responsible individuals may be placed in the serious deficiency process.

The steps in the serious deficiency process are as follows:

1. Serious Deficiency determination
2. Notice of Serious Deficiency
3. Opportunity for corrective action
4. Notice of Proposed Termination and Proposed Disqualification (if an approvable corrective action plan is not submitted or does not fully and permanently correct the non-compliances)

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5. Notice of Termination of the Permanent Agreement and Disqualification of the organization, responsible principals, and responsible individuals.

10210 Serious Deficiency Determination

Serious deficiencies for a participating CE are:

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity..
- Permitting an individual who is on the NDL to serve in a principal capacity or perform CACFP functions with the organization, or permitting such an individual to serve as a principal in a sponsored site or as a day care home.

  NOTE: CEs must check the NDL prior to hiring new staff, submitting new sites, or hiring new staff.
- Failure to operate the CACFP in accordance with regulatory performance standards:
  - Performance Standard 1 – Financial viability and financial management.
  - Performance Standard 2 – Administrative capability.
  - Performance Standard 3 – Accountability.

  EXAMPLES: continued submission of late claims; failure to account for CACFP funds; failure to use funds for allowable costs; failure to submit adjusted budgets as necessary; failure to train staff prior to beginning operations.

- Failure to comply with the procurement bid procedures and contract requirements.

  EXAMPLES: failure to advertise the Invitation for Bid and Contract for Purchased Meals (IFB) as required; obtaining bid specifications from a potential bidder; failure to disclose less-than-arms-length transactions.

- Failure to return to TDA any advance payments exceeding the amount earned for serving eligible meals.
- Failure to maintain adequate records.

  EXAMPLES: incomplete or incorrect eligibility or enrollment documentation; lack of documentation to support a claim, such as meal count and attendance records; financial documentation.

- Failure to adjust meal orders to conform to variations in the number of participants (for those who vend meals).
- Claiming reimbursement for meals not served to participants.
- Claiming reimbursement for a significant number of meals that do not meet CACFP requirements.

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- Use of a Food Service Management Company that is in violation of health codes.
- Failure of a sponsoring organization to disburse payments to its sites/providers in accordance with the Program requirements and/or the CE's management plan.
- Claiming reimbursement for meals served by a for-profit adult day care center, if less than 25% of its enrolled adult participants were Title XIX or Title XX beneficiaries during the calendar month in which the meals were served;
- Failure of a sponsoring organization to properly train or monitor sites/providers;
- Failure to perform any of the other financial and administrative responsibilities in accordance with Program requirements.

  EXAMPLES: failure to submit a required audit; failure to return information required for corrective action; failure to complete the annual renewal process; failure to return unearned reimbursement including advances.

- The CE or any of the CE's principals have been declared ineligible for any other publicly funded program by reason of violating that program's requirements.
  - This prohibition does not apply if the CE or principal(s) have been fully reinstated or made eligible to participate in that program, including the payment of any debts owed.
- Conviction of the CE or any of its principals for any activity that occurred during the past seven years that indicated a lack of business integrity.
- Submission of false claims.
- For day care home sponsors:
  - Failure to properly classify day care homes as tier I or tier II.
  - Use of day care home funds to pay for the sponsor's administrative expenses.
  - Failure to properly implement or administer the day care home termination and administrative review (appeal) provisions.
- Any other action affecting the CE's ability to administer the Program in accordance with CACFP requirements.

TDA may declare a CE, responsible principals, and responsible individuals seriously deficient for any serious management or integrity issues.

TDA will use discretion in making these serious deficiency determinations by distinguishing between:

- Occasional and systemic errors - Is the error an indication of a systemic problem in the organizations internal processes and procedures, or is it truly an isolated event?
- Minor and major errors - Does the error undermine the intent and integrity of the CACFP or is it simply an administrative error?

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NOTE: Submission of false or fraudulent claims or documentation, or evidence of imminent threat to health or safety, will result in a determination that the organization is seriously deficient regardless of the frequency of occurrence or the impact on the organization's claim.

If a CE is deemed seriously deficient, TDA will always:

- Detail the non-compliances (known as "findings") that led to the declaration of serious deficiency.
- Refer to and apply state and federal laws, guidelines, and regulations to maintain consistency in making serious deficiency determinations.

Once a *Notice of Serious Deficiency* is issued, it can result in only two outcomes:

- The serious deficiency(ies) is fully and permanently corrected to TDA's satisfaction within the time allotted for corrective action; or
- The serious deficiency(ies) is not fully and permanently corrected to TDA's satisfaction within the time allotted, and TDA proposes termination of the CE's Permanent Agreement and disqualification and placement of the CE, responsible principals, and responsible individuals on the NDL.

When a CE is deemed seriously deficient, TDA must also:

- Determine who is responsible for the serious deficiency;
- Include the names of those individuals in the *Notice of Serious Deficiency*; and
- Send a copy of the notice to the CE, responsible principals, and responsible individuals.

NOTE: Indications of fraud or misuse of funds may be referred to USDA for investigation and referred for prosecution under applicable federal and state law.

10220 Notice of Serious Deficiency

The *Notice of Serious Deficiency* will specify:

- The serious deficiency(ies) with references to the documents that discuss the serious deficiency(ies), such as an administrative review findings letter, information or documentation in TX-UNPS, or audit;
- The corrective action(s) required to be taken to fully and permanently correct the serious deficiency(ies), and the deadline(s) by which corrective action must be taken and a corrective action plan submitted;
- The person(s) determined to be the responsible principals and responsible individuals (responsible for the serious deficiencies);
- The serious deficiency determination **is not** subject to appeal;

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- Failure to fully and permanently correct the serious deficiency(ies) by the deadline will result in the proposed:
  - Termination of the CE's Permanent Agreement for cause; and
  - Disqualification of the CE, responsible principals and responsible individuals.
- Voluntary termination of the CEs Permanent Agreement after the CE receives the *Notice of Serious Deficiency* will result in the organization's formal termination and placement of the organization, responsible principals, and responsible individuals on the NDL without further opportunity for corrective action or appeal.
- If TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of approvable corrective action.

10230 Opportunity for Corrective Action

The CE and responsible principal(s)/responsible individual(s) will be allowed a specific amount of time to fully and permanently correct the serious deficiency(ies) before TDA proposes to terminate the Permanent Agreement.* The deadline is final and will not be extended.

***EXCEPTION:** If the serious deficiency is due to an imminent threat to the health or safety of participants, TDA will immediately suspend the CE's participation, propose to terminate the Permanent Agreement, and propose to disqualify the CE, responsible principal(s), and responsible individual(s) without opportunity for corrective action.

Refer to Item 10400, *Imminent Threat to Health or Safety*, for more information.

TDA will determine if the serious deficiency(ies) have been fully and permanently corrected by:

- Reviewing the documentation submitted detailing the corrective action taken; and
- Conducting an onsite review to verify that corrective action was taken, if needed.

If the serious deficiency(ies) is fully and permanently corrected within the time allowed, all parties will receive written notification that the serious deficiency process has been temporarily deferred. If at any time it is discovered that the serious deficiency(ies) has not in fact been fully and permanently corrected, TDA will immediately propose disqualification and termination without further opportunity for corrective action.

NOTE: If TDA does not have the date of birth for any responsible party, submission of that information will be part of the required corrective action. Failure to provide the required date(s) of birth will result in denial of a CE's corrective action.

10240 Notice of Proposed Termination and Proposed Disqualification

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The *Notice of Proposed Termination and Proposed Disqualification* will specify:

- That TDA is proposing to terminate the CE's Permanent Agreement;
- That TDA is proposing to disqualify the CE, responsible principal(s) and responsible individual(s);
- The basis for the proposed actions;
- The effective date for the proposed actions;
- The procedures for appealing the proposed actions;
- That the CE will receive CACFP payments for eligible meals and operation/administrative costs during the period of appeal (unless its participation has been suspended); and
- That voluntary termination of the CEs Permanent Agreement after the CE receives the *Notice of Proposed Termination and Proposed Disqualification* will still result in the organization's formal termination and placement of the organization, responsible principals and responsible individuals on the NDL and State Agency List without further opportunity for corrective action or appeal.

This notice will be sent to the CE, Executive Director, Chairman of the Board, and any other responsible principal(s) and responsible individual(s).

Any identified parties in the *Notice of Proposed Termination and Proposed Disqualification* may file for appeal. Each person wishing to appeal their proposed disqualification from the Program and placement on the NDL must submit a request either collectively, naming each person, or separately. Only a responsible principal may appeal the proposed termination and proposed placement of the organization on the NDL. At the discretion of the ARO, one hearing will be conducted combining all requests received from the responsible principals and responsible individuals.

If a request for an appeal is not received within 15 days of receipt of the notice, TDA will immediately issue a *Notice of Termination and Disqualification*.

If a request for an appeal is received within 15 days of receipt of the Notice, and the ARO overturns TDA's action, TDA will issue a *Notice of Temporary Deferral of Serious Deficiency*. The effective date of the temporary deferral will be the same date of the ARO's decision.

10250 Notice of Termination and Disqualification

The *Notice of Termination and Disqualification* will inform all parties that the:

- Permanent Agreement has been terminated; and
- Organization, responsible principal(s), and responsible individual(s) have been disqualified and placed on the NDL and State Agency List.

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The effective date of the termination and disqualification is the date in the *Notice of Proposed Termination and Proposed Disqualification* letter if a request for an appeal was not received or was not received timely. If a request for an appeal was received and TDA's actions were upheld, the effective date will be the date of the ARO's decision.

10300 Submission of False Claims and Documentation

Submitting false information on a claim for reimbursement and submitting false documentation in support of that claim to receive reimbursement is a serious deficiency.

If it is determined that a CE knowingly submitted false information or documentation to receive reimbursement, the CE will be placed in the serious deficiency process, and its Program participation, including Program payments, may be suspended.

10310 Suspension

Suspension for the submission of false claims is an action taken simultaneously with the serious deficiency process.

Once the determination is made, the CE will receive a *Notice of Intent to Suspend*. This notice will not be combined with the *Notice of Serious Deficiency*; however, both notices will be sent to the CE at the same time.

The notice will:

- Inform the CE that TDA is proposing to suspend its participation, including all payments;
- Specify that the proposed suspension is due to the CE's submission of a false claim or false information/documentation to receive reimbursement as specified in the *Notice of Serious Deficiency*;
- State that the effective date of the proposed suspension will be 10 days from the date the CE receives the *Notice of Intent to Suspend*, unless the CE requests a review (appeal) of the proposed suspension;
- Include the name, address, and telephone number of the suspension review official (SRO); and
- Specify that if the CE wants to request a review of the proposed suspension, it must submit the request to the address provided and include written documentation opposing the proposed suspension within 10 days of its receipt of the *Notice of Intent to Suspend*.

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10400 Imminent Threat to Health or Safety

If state or local health or licensing officials have cited a CE for serious health or safety violations that constitute an imminent health or safety threat, TDA will immediately send the CE a *Notice of Suspension, Proposed Termination and Proposed Disqualification for Imminent Threat*.

This notice will specify:

- That TDA is suspending the CE's participation (including Program payments), proposing to terminate the CE's Permanent Agreement, and proposing to disqualify the CE and the responsible principals and responsible individuals;
- The serious deficiency(ies);
- That voluntarily termination of the CE's Permanent Agreement after the CE receives the Notice will still result in the organization's formal termination and placement of the organization, responsible principals, and responsible individuals on the NDL without further opportunity for corrective action or appeal;
- That the serious deficiency determination is not subject to appeal;
- The procedures for appealing the suspension, proposed termination, and proposed disqualifications; and
- That, if the ARO overturns the suspension, the CE may claim reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

The notice will be sent to the:

- Executive Director;
- Chairman of the Board of Directors; and
- Responsible principal(s) and responsible individual(s).

In an appeal based on *Imminent Threat*, the CE, responsible principal(s), and/or responsible individual(s) may appeal any or all three adverse actions:

- Suspension.
- Proposed termination.
- Proposed disqualification.

NOTE: If the CE, responsible principal(s), or responsible individual(s) do not request an appeal within the time allotted in the written notice, TDA will proceed with termination of the Permanent Agreement and disqualification of the CE, responsible principals, and responsible individuals.

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If an appeal is requested and the ARO upholds TDA's decision, TDA will send a *Notice of Termination and Disqualification* to the CE, responsible principal(s), and responsible individual(s). The notice informs all parties that the:

- Permanent Agreement is terminated for cause; and
- CE, responsible principal(s), and responsible individual(s) are disqualified and placed on the NDL.

If the ARO overturns TDA's actions, TDA will send a *Notice of Temporary Deferral*. This notice:

- Removes the suspension effective the date of the ARO's decision.
- Informs the CE that the Permanent Agreement will not be terminated.
- Informs all parties that they will not be disqualified.
- Informs the CE that they can claim for eligible meals served during the suspension period.

NOTE: If TDA determines there is an imminent threat to health or safety, TDA will immediately inform the health or licensing authority and take action that is consistent with the authority's recommendation, up to and including suspension of participation and placement in the serious deficiency process as detailed above.

10500 Serious Deficiency at Sponsored Sites

10510 Serious Deficiency Process for Unaffiliated Child Care Centers, At-Risk Centers, or Adult Day Care Centers

If a sponsor of an unaffiliated child care center, At-Risk center, or Adult Day Care center discovers that one of their sponsored sites consistently violates Program requirements, and the violations are severe enough to warrant placement of the responsible principal(s) and/or responsible individual(s) of that site in the serious deficiency process, the sponsor may request assistance from the Community Operations section of TDA in determining if the severity of the non-compliance(s) identified rises to the level of serious deficiency.

The sponsor must submit:

- A written request that details the serious deficiency or serious deficiencies identified and any supporting documentation.
- Copies of training logs that indicate the training the site has received.
- Copies of all applicable *Monitor Review* forms (H1606, H1606-AT, or H1602), for the site's current and previous review cycle.
- Copies of corrective action required by the sponsor, if any.

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Once the request is received, TDA will review the documentation submitted and request additional information if necessary. TDA, in coordination with the sponsor as applicable, will conduct an unannounced review of the site to determine if the severity of the non-compliance(s) identified rises to the level of serious deficiency and is of an egregious nature. Reference Section 9000, *Terms and Definitions* for a definition of egregious.

During the review, TDA will be assessing the sponsor's contribution, if any, toward the serious deficiency or deficiencies to determine any findings or deficiencies that the sponsor itself may need to address. Note that TDA may determine that both the sponsor and site are seriously deficient and place both in the serious deficiency process. A sponsor's disqualification will not necessarily exempt the sponsor's sites from the serious deficiency process if TDA determines that the site's deficiencies were not caused by a lack of oversight or training by the sponsor.

If TDA determines that the non-compliances rise to the level of serious deficiency, the serious deficiency process as outlined in Item 10200, *Participating Contracting Entities*, will be initiated by TDA for the responsible principals and individuals within the site.

TDA will keep the sponsor informed of the progress throughout each step of the process.

Should the responsible principals and/or individuals submit acceptable corrective action, TDA, in coordination with the sponsor, will conduct a second unannounced review of the site to ensure the corrective action has been correctly implemented and fully and permanently corrects the non-compliances. The sponsor will be required to conduct more frequent reviews of a site that has had responsible principals and individuals in the serious deficiency process.

Should the serious deficiency process progress to proposed disqualification of a responsible principal or individual from a site, and the responsible principal or individual appeals the action taken, the sponsor will be required to attend, and possibly provide testimony, at the hearing, if applicable.

Throughout the serious deficiency process, the sponsor will continue to pay valid claims submitted by the site.

10520 Serious Deficiency Process for Day Care Home Providers

CEs must initiate the serious deficiency process if it is determined the provider has committed one or more serious deficiencies.

There are five steps in the serious deficiency process.

Step 1. Serious deficiency determination, the point at which the sponsor determines the provider's noncompliance(s) rise to the level of serious deficiency.

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Step 2. Notice of serious deficiency, the first notification sent to the provider informing them they have been determined seriously deficient.*

Step 3. Opportunity for corrective action, the time given to the provider allowing them to fully and permanently correct the serious deficiencies.

Step 4. Notice of proposed termination and disqualification, the second notification sent to the provider if they fail to fully and permanently correct the serious deficiencies.* This notice allows the provider to appeal the proposed actions.

Step 5. Notice of termination and disqualification, the third notification sent to the provider if they fail to appeal the notice of proposed termination and disqualification, or they appeal and the hearings official upholds the sponsor's proposed actions.*

***IMPORTANT:** A copy of each Notice must be sent to TDA at the same time it is sent to the provider. Email the copy to community.ops@Texasagriculture.gov. In the subject line, indicate the type of notice (for example, *Notice of Serious Deficiency*), the CE name, and the CE ID. CEs may not wait until the process is completed and send a copy of all letters to TDA at one time. Failure to copy TDA during each step of the process could result in the CE being placed in the Serious Deficiency Process.

10521 Serious Deficiency Determination for Day Care Home Providers

Serious deficiencies that could lead to a provider's termination and disqualification include:

- Submission of false information on the application.
- Submission of false claims for reimbursement.
- Simultaneous participation under more than one CE.
- Noncompliance with CACFP meal patterns.
- Failure to keep required records.
- Failure to participate in training.
- Conduct or conditions that threaten the health or safety of a child or children in care, or the public health or safety.
- A determination that the provider has been convicted of an activity that indicated a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice.
- Any other circumstance related to non-performance under the Permanent Agreement between the sponsor and the site or provider.

CEs must use discretion in making a serious deficiency determination.

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To appropriately use discretion, CEs must be able to distinguish between:

- Occasional (happened once or infrequently) versus systemic (is ongoing and is a problem that is due to a procedural inadequacy) errors.
- Minor (no or few disallowances) versus major (many disallowances or falsified claims) errors.

CEs should take into account several factors in deciding whether a problem rises to the level of a serious deficiency:

- The frequency of the error.
- The severity of the error.
- Length of the provider's CACFP experience.
- Was the error intentional or due to the provider's misunderstanding of CACFP requirements?

Once a notice of serious deficiency is issued, it can result in only two possible outcomes:

- The provider fully and permanently corrects the serious deficiency within the period allotted for corrective action.
- The provider does not fully and permanently correct the serious deficiency, and the CE proceeds to proposed termination of the agreement and proposed disqualification of the provider.

Once a serious deficiency has been determined, the CE must immediately prepare the *Notice of Serious Deficiency*, which will be distributed to the provider **and** TDA.

NOTE: Sample letters for each step in the serious deficiency process can be found in Section 11000, *Resources*.

10522 Notice of Serious Deficiency

The notice of serious deficiency must specify:

- That the provider has been found to be seriously deficient.
- The nature of the serious deficiency(ies).
- The corrective action required to resolve the serious deficiency(ies) and the deadline (not to exceed 30 days) by which the action must be taken.
- That the serious deficiency determination is not subject to appeal.
- That failure to fully and permanently correct the serious deficiency by this deadline will result in:
  - Proposed termination of the provider's agreement.
  - Proposed disqualification of the provider and placement on the NDL.

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- If the provider voluntarily terminates the agreement after he/she receives the serious deficiency notice, the CE will terminate the provider's agreement, disqualify the provider, and place the provider's name on the NDL.

10523 Opportunity for Corrective Action

Providers are allowed up to 30 days to correct a serious deficiency. CEs may not allow a provider additional time.

EXCEPTION: Providers are not given an opportunity for corrective action in the case of imminent threat to the health or safety of participants or the public. Refer to Item 10560 below for additional information.

Corrective action must include the following:

- Provider's full name, address, and date of birth (if the sponsor does not already have the current information for the provider),
- Procedures the provider will implement to correct each noncompliance,
- Date the noncompliance(s) were corrected or implementation date for correction if applicable,
- Location of the corrective action documentation (records associated with correcting the noncompliance(s)), and
- Supporting documentation (such as copies of enrollment records, menus, etc.), if applicable.

Evaluating the acceptability of corrective action

Upon receipt of a provider's corrective action, the CE must review it to determine if it contains all required information **and**, if implemented as written, has or would correct all noncompliance(s) and prevent them from occurring in the future (full and permanent corrective action).

NOTE: An assurance from a provider that it will comply with all requirements from now on would not be acceptable corrective action.

Whenever feasible, CEs should make onsite visits to verify and evaluate the implementation and effectiveness of the provider's corrective action.

If the provider fully and permanently corrects the serious deficiency within the time allowed for corrective action, send a notice to the provider, with a copy to TDA, stating that the serious deficiency determination has been temporarily deferred due to the provider's successful corrective action.

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Remember that a copy of this notice must be sent to TDA (community.ops@Texasagriculture.gov) at the same time it is sent to the provider.

If the provider fails to take corrective action, or the corrective action does not fully and permanently correct the noncompliance, the provider must be sent a *Notice of Proposed Termination and Proposed Disqualification*, with a copy to TDA. Do not send the *Notice of Proposed Termination and Proposed Disqualification* until after the period allowed for corrective action has expired.

CEs may not suspend the participation of a provider based on a determination that the provider submitted false or fraudulent claims. The corrective action period allows the provider time to demonstrate that:

- An administrative error was made.
- The CE confused two providers with similar or identical names.
- The information submitted by the provider was not, in fact, false.
- Any other corrective action deemed acceptable.

In addition to declaring the provider seriously deficient and offering a brief period for corrective action, CEs must deny the portion of the claim which is false or fraudulent. CEs must never reimburse providers for invalid claims.

If disallowances are taken, repayment of the funds must be part of the corrective action. The serious deficiency determination is not subject to appeal. However, the provider may appeal the disallowances, and the CE must include appeal rights in the *Notice of Serious Deficiency* in those cases.

10524 Notice of Proposed Termination and Proposed Disqualification

If the provider does not submit corrective action or if the CE determines that the corrective action submitted does not fully and permanently correct the noncompliance(s), the CE must immediately send the notice of proposed termination and proposed disqualification, with a copy to TDA (community.ops@Texasagriculture.gov).

This notice must:

- State that the CE is proposing to terminate the provider's agreement for cause and proposing to disqualify the provider for placement on the NDL.
- State that these actions are being taken due to the provider's failure to correct the serious deficiency.
- Inform the provider that it may appeal the proposed termination and proposed disqualification, and provide the appeal procedures.

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- Inform the provider that it can continue to participate and receive Program reimbursement during the period of appeal (normally the provider will continue to receive payments unless suspended for imminent threat).
- Inform the provider that if it voluntarily terminates the agreement after receiving the notice, it will be disqualified and placed on the NDL.

The effective date of the proposed termination and proposed disqualification must be no earlier than 30 days from the date of the letter.

If the provider appeals the *Notice of Proposed Termination and Proposed Disqualification* and the action is overturned, the provider must be sent a *Temporary Deferral of Serious Deficiency*, with a copy to TDA. The effective date of the temporary deferral is the date of the hearing official's decision.

10525 Notice of Termination and Disqualification

If the provider fails to appeal the *Notice of Proposed Termination and Proposed Disqualification*, or if the hearing official rules in the CE's favor, the provider must be sent a *Notice of Termination and Disqualification*, with a copy to TDA (community.ops@Texasagriculture.gov). Do not give appeal rights.

If the provider does not appeal, the effective date of the termination and disqualification is the date in the *Notice of Proposed Termination and Proposed Disqualification* letter. If the provider appealed and the action is upheld, the effective date is the date of the hearing official's decision.

At this step of the serious deficiency process, the CE must "close" the provider's participation in the CACFP via TX-UNPS.

10526 Suspension of Provider Participation

If state or local health or licensing officials have cited a provider for serious health or safety violations that constitute an imminent health or safety threat, the sponsor must immediately send the provider a *Notice of Suspension, Proposed Termination and Proposed Disqualification for Imminent Threat*, with a copy to TDA (community.ops@Texasagriculture.gov).

This notice must:

- Notify the provider that its participation in the CACFP has been suspended, including all payments.
- State that the provider has been determined to be seriously deficient, and that the CE is proposing to terminate the Provider's agreement for cause and disqualify the Provider, including the effective date.

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- Specify the serious deficiencies that constitute the imminent threat.
- Include the procedures for the provider to appeal the suspension and the proposed actions.
- State that the suspension, including all CACFP payments, will remain in effect during the period of appeal, if the provider appeals.
- Inform the provider that if the hearing official overturns the suspension, the provider may claim reimbursement for eligible meals served during the period of suspension.
- Inform the provider that termination will result in disqualification.
- State that if the provider voluntarily terminates his/her agreement after receiving this notice, the provider will be disqualified and his/her name will be placed on the NDL.

An imminent threat to health or safety requires the immediate suspension of a provider without the opportunity for corrective action.

If the provider appeals and loses, send the provider a *Notice of Termination and Disqualification* informing the provider that:

- The provider's agreement is terminated for cause.
- The provider is disqualified and placed on the NDL.

If the provider appeals and the CE's actions are overturned, send the provider a *Notice of Temporary Deferral* informing the provider that:

- The home's suspension ended on the date of the hearing official's decision.
- The home's agreement will not be terminated.
- The Provider will not be disqualified and may claim for eligible meals served during the suspension period.

Send a copy of the *Notice of Termination and Disqualification* or *Notice of Temporary Deferral* to TDA as described above.

NOTE: If a CE determines there is an imminent threat to health or safety in a day care home, it must immediately inform the health or licensing authority and then take action that is consistent with the authority's recommendation. Follow the procedures outlined above as applicable.

10600 Removal from the National Disqualified List

Organizations, responsible principal(s), and responsible individual(s) that are disqualified from participation in the CACFP are placed on the NDL and will remain on the list for a minimum of seven years from the date of disqualification unless a debt is owed under the CACFP, in which case they will remain on the list until the debt has been repaid.

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NOTE: Due to the egregious nature of certain activities, TDA will not consider a request for early removal of an organization or individual who was disqualified for falsification of records, making false representations, making false claims, engaging in an unlawful practice, or any other activity indicating a lack of business integrity.

For disqualifications because of other serious deficiencies that do not indicate a lack of business integrity, organizations and individuals may submit a request to be removed from the NDL before the seven years have elapsed. However, note that:

- Submission of a request does not guarantee the request will be approved
- Denial of a request for early removal is not subject to appeal; and
- Approval of a request for early removal does not equal approval to participate in the CACFP. A new application for participation in the program must be submitted and processed in accordance with TDA's application process.

For a request to be considered, the organization, responsible principal(s), or responsible individual(s) must submit the following to TDA:

- Corrective action that includes:
  - **An acceptable Corrective Action Plan (CAP):** The organization, principal(s), or individual(s) must submit an acceptable CAP outlining the actions that will be taken or have been taken to correct the serious deficiencies that caused placement on the NDL. If TDA rejects the CAP, this action cannot be appealed.
  - **Any outstanding audits:** If the serious deficiency(ies) include failure to submit an acceptable audit, the organization must submit an audit that complies with Single Audit requirements or for-profit audit requirements that were in effect at the time the audit was originally due. Corrective action must also include a plan to address any deficiencies identified in the audit.
  - **All outstanding funds owed:** If the organization has an outstanding debt for a previous CACFP claim, adjusted claim, advance overpayment, or audit finding, the debt must be repaid, including interest.
  - **One of the following:**
    - An explanation, setting forth detailed, objective, verifiable facts, indicating why the principal(s) or individual(s) identified as being responsible for the serious deficiency(ies) should now be eligible to participate in the CACFP, if the person or persons are requesting removal.
    - A statement that the principal(s) identified as being responsible for the serious deficiency(ies) are no longer principals in the organization, if they are not included in the request for removal.
    - A statement that the individual(s) identified as being responsible for the serious deficiencies do not perform any tasks related to the CACFP, or are no longer employed by the organization, if they are not included in the request for removal.

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Requests for removal, including required documentation, should be submitted via the Removal Request Form - National Disqualified List or Texas Excluded Summer Food Service Program List located on SquareMeals on the National Disqualified List / Texas Excluded Summer Food Service page (https://squaremeals.org/FandN-Resources/National-Disqualified-List).

Requests may also be submitted via letter to:

Texas Department of Agriculture
Food and Nutrition
Attn: Community Operations
P.O. Box 12847
Austin, Texas 78711

Or via overnight delivery to:

Texas Department of Agriculture
Food and Nutrition
Attn: Community Operations, 10th Floor
1700 N Congress Avenue
Austin, Texas 78701

If TDA determines that the organization, principal(s), and/or individuals have taken corrective action to fully and permanently correct the serious deficiencies, an assessment will be forwarded to USDA.

USDA will determine, in consultation with TDA, if the organization, principal(s) and/or individuals will be removed from the NDL. TDA will notify the organization and responsible principals and individuals of USDA's decision.

If either TDA or USDA does not accept the corrective action and decides to retain the organization, responsible principal(s) or responsible individual(s) on the NDL, the decision may not be appealed.

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Section 11000
Resources

Log of Section Updates

This table will reflect ongoing updates to the handbook. All rows highlighted in yellow reflect the changes made in the latest released version.

Date of Edit	Content/Purpose	Subsection(s)
11-28-2022	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk), which includes providing clarification and minor terminology adjustments to distinguish forms and resources that may not apply to all CACFP sub-programs. This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A
11-28-2022	Removed contact information for "Community Operations Field Offices." All communications to TDA regarding CACFP should be directed to the central Community.Ops@TexasAgriculture.gov email address.	Applicable subsections removed.
11-28-2022	Updated language around Time Distribution Reporting to reflect how employees dedicated 100% to CACFP activities need to document their time.	11121
11-28-2022	Numerous additions to and clarifications in the day care home provider sample serious deficiency letters, pursuant to 2021 USDA management evaluation suggestions.	11610, 11620, 11631, 11632, 11641, 11642, 11651, 11652, 11653, 11654
11-28-2022	Updated links to various USDA resources.	11230, 11411, 11500

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Resources

11100 Administration

11110 Education Service Center Offices

Additional information about Education Service Centers is available on TDA's SquareMeals website at: **https://squaremeals.org/About/EducationServiceCenters.aspx**

Region 1
Edinburg
FAX (956) 984-7602
(956) 984-6000
1900 West Schunior
Edinburg, Texas 78541

Region 2
Corpus Christi
FAX (361) 561-8649
(361) 561-8400
209 N Water Street
Corpus Christi, Texas 78401

Region 3
Victoria
FAX (361) 576-4804
(361) 573-0731
1905 Leary Lane
Victoria, Texas 77901

Region 4
Houston
FAX (713) 744-2731
(713) 744-8162
7145 West Tidwell
Houston, Texas 77092

Region 5
Beaumont
FAX (409) 951-1821
(409) 951-1700
350 Pine Street, Suite 500
Beaumont, Texas 77701

Region 6
Huntsville
FAX (936) 435-8482
(936) 435-8400
3332 Montgomery Road
Huntsville, Texas 77340

Region 7
Kilgore
FAX (903) 988-6860
(903) 988-6700
1909 North Longview Street
Kilgore, Texas 75662

Region 8
Mt. Pleasant
FAX (903) 575-2610
(903) 572-8551
Mailing: P.O. Box 1894
Pittsburg, Texas 75456
Physical: 4145 US Highway 271 North, Mt. Pleasant, Texas 75686

Region 9
Wichita Falls
FAX (940) 767-3836
(940) 322-6928
301 Loop 11
Wichita Falls, Texas 76306

Region 10
Richardson
FAX (972) 348-1387
(972) 348-1700
400 E. Spring Valley
Richardson, Texas 75081

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Region 11
Ft Worth
FAX (817) 740-3601
(817) 740-3600
1451 S. Cherry Lane
White Settlement, Texas 76108

Region12
Waco
FAX (254) 666-0696
(254) 297-1212
Mailing: P.O. Box 23409
Waco Texas 76702
Physical: 2101 W Loop 340
Waco, Texas 76712

Region 13
Austin
FAX (512) 919-5430
(512) 919-5313
5701 Springdale Road
Austin Texas 78723

Region 14
Abilene
FAX (325) 675-8659
(325) 675-8600
1850 State Highway 351
Abilene Texas 79601

Region 15
San Angelo
FAX (325) 655-4823
(325) 658-6571
Mailing: P.O. Box 5199
San Angelo Texas 76902
Physical: 612 South Irene Street, San Angelo 76903

Region 16
Amarillo
FAX (806) 677-5001
(806) 677-5000
5800 Bell Street
Amarillo Texas 79109

Region 17
Lubbock
FAX (806) 799-8630
(806) 281-5803
1111 W. Loop 289
Lubbock Texas 79416

Region 18
Midland
FAX (432) 567-3290
(432) 563-2380
Mailing: P.O. Box 60580
Midland Texas 79711
Physical: 2811 LaForce Blvd.

Region 19
El Paso
FAX (915) 780-6537
(915) 780-1919
6611 Boeing Drive
El Paso, Texas 79925

Region 20
San Antonio
FAX (210) 370-5754
(210) 370-5659
1314 Hines Avenue
San Antonio Texas 78208

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11120 Sample Forms

11121 Sample Time Distribution Report

This sample report is designed for employees who are not 100% dedicated to CACFP functions and must document the distribution of time between CACFP functions and non-CACFP functions.

IMPORTANT:

- Employees that are 100% dedicated to CACFP functions **may** sign and date an attestation every six months affirming their time allocation in lieu of a daily time distribution report/form.
    - 100% dedicated CACFP employees **must** still document allocation of time between administrative and operational tasks.
- 100% dedicated employees with a fixed allocation between administrative and operational tasks **may** attest to this every six months.
    - If the allocation is not fixed, 100% dedicated employees **may** use the (Sample) Time Distribution Report form, or an alternative reporting method containing the same data points to document their time breakdown between operational and administrative hours.
- Time and attendance sheets documenting start times, end times, and absences **must** be completed and available for review (upon request) for **all** employees, regardless of time allocation.
    - The employee **must** sign and date each of their own time and attendance sheets.
        - Electronic time and attendance reporting **must** allow for staff to sign off on their reported time and attendance regularly (at least monthly) and contain a statement confirming the accuracy of the time and attendance reported.

[See next three pages for form and instructions.]

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Employee Name	Position	Normal Work Hours	Month/Year

	WORK HOURS (INCLUDE AM/PM)		FOOD SERVICE ADMINISTRATION TASKS			FOOD SERVICE OPERATIONS TASKS						
Day	Start	End	A. Managing	B. Planning	C. Organizing	D. Menu Planning	E. Meal Prep/Serve	F. Meal Clean-Up	G. Supervise Meal	H. Meal Records	I. Non Food Service	J. Total Hours
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
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21												
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25												
26												
27												
28												
29												
30												
31												
Monthly Totals												

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Total Food Service Hours_____ + Total Non-Food Service Hours _____ = Total Hours Worked _____

I certify that all information is true and correct.

_____ _____

Signature – Employee **Date**

Approval:

_____ _____

Signature – Supervisor **Date**

Form Revised November 2022

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Instructions – (Sample) Time Distribution Report

PURPOSE

To document the time spent performing Food Service and Non-Food Services tasks for each day of the month worked, as well as the allocation between operational and administrative CACFP functions. This information is used to establish the portion of costs that may be claimed as Food Service labor.

PROCEDURE

When to Prepare

Full-time and part-time employees who split time between CACFP functions and non-CACFP functions must complete this form, or a similar form capturing the same data points. Employees that are 100% dedicated to CACFP functions may use this form to document time spent between operational and administrative tasks if the allocation is not fixed. Employees with fixed time allocations may sign an attestation every six months in lieu of completing this report. The information submitted in this form must account for the total activity for which each employee is compensated. The reports must reflect an after-the-fact determination of the actual activity of each employee. Each employee must be reported separately.

Number of Copies

Complete and maintain one original for each employee for each month.

Transmittal

Keep the completed and signed form in your files.

Form Retention

Keep the Time Distribution Report for three (3) years from the end of the contract period. Exception: If audit findings, claims, or litigation have not been resolved by the end of the retention period, all forms and records must be kept until final resolution.

DETAILED INSTRUCTIONS

Employee Name – Enter the name of the employee whose time distribution is being recorded.

Position – Enter the title of the position for this employee.

Normal Work Hours – Enter the normal start and end time for this employee.

Month/Year – Enter the month and the year covered by this time distribution report.

Day – No entry is required. This column indicates that day of the month.

Work Hours – The employee enters the start and end time for each workday, including AM/PM of hours entered. More than one time may be entered if the employee has a break in work hours other than normal lunch and break times.

Food Service Administrative Tasks and Food Service Operational Tasks – The employee enters the time spent performing Food Service tasks in the column that best describes the nature of the activity. Time must be reported in 15-minute intervals. Employees should round up or down to the nearest half-hour. This should reflect an after-the-fact determination of the actual time spent in each activity.

Non-Food Service – The employee enters the amount of time spent performing tasks that ARE NOT related to the administration or operation of the Food Service. Time must be reported in 15-minute intervals. Time should be rounded up or down to the nearest half-hour. This should reflect an after-the-fact determination of the actual time spent in each activity.

Total Hours – The employee enters the total number of hours worked that day. It should agree with the total of the hours entered under the task columns.

Monthly Total – Enter the total time spent performing the task identified in each column.

Total Food Service Hours – Enter the total of columns A, B, C, D, E, F, G, and H.

Total Non-Food Service – Enter the total time noted in column I.

Total Hours Worked – Enter the total hours worked during the month. This entry should agree with the total of column J.

Signature and Date–Employee – The employee must sign and date the document to certify that all information is true and correct.

Signature and Date–Supervisor – The employee's supervisor must sign and date the document to show approval of the form.

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11122 Field Trip Food Service Documentation

1. Contracting Entity (CE) Name:	2. Site Name:	3. CE ID:
4. Destination/City/State:	5. Date of Trip:	6. Departure Time: 7. Return Time:

8. Field Trip Meal Service	
Meal Type (s): _B _A _L _P _S _E	Where were the meals served?
Describe the method used to ensure transported foods were held at proper temperatures:	

9. MENU SERVED ON FIELD TRIP			
Menu I		Menu II	
Milk:	Meat:	Milk:	Meat:
Vegetable:	Bread:	Vegetable:	Bread:
Fruit:	Other:	Fruit:	Other:

10. FIELD TRIP ATTENDANCE		
Name of Participant	Name of Participant	Name of Participant
1.	10.	19.
2.	11.	20.
3.	12.	21.
4.	13.	22.
5.	14.	23.
6.	15.	24.
7.	16.	25.
8.	17.	26.
9.	18.	27.

11. I certify that to the best of my knowledge, the information reported on this form is true and correct. I understand misrepresentation may result in prosecution under applicable state or federal laws. I certify that all meals were prepared, delivered and served in accordance with state and local health department standards.

SIGNATURE OF EMPLOYEE _____ DATE OF SIGNATURE _____

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Instructions – Field Trip Food Service Documentation Form

PURPOSE

To document field trip food service in child and adult care centers, and day care homes.

PROCEDURE

When to Prepare

Contracting Entities (CEs) and sites must maintain documentation of meals served on field trips according to program requirements. This is an optional form CEs and sites may use to document field trips. This form, if fully completed, contains all elements that are required to document field trips. Required documentation of field trips must be completed on the day of the field trip.

Number of Copies

Complete one form for each field trip and for each meal type claimed.

Transmittal

Forms are retained in the CE's and site's files.

How to Obtain Copies

Reproduce this form as necessary.

Retention

CEs and sites must keep documentation of meals served on field trips for three (3) years from the end of the program year. **Exception:** If audit findings, claims, or litigation have not been resolved by the end of the retention period, all forms and records must be kept until final resolution.

DETAILED INSTRUCTIONS

Information contained on this form does not replace the requirement that CEs and sites document meal counts and attendance on the *Daily Meal Count and Attendance Record* (H1535 for child and adult care centers and emergency shelters, or H1535-AT for At-risk afterschool care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate, or the requirement that CEs and sites document daily meal production records that include the food items and amounts of food used on the *Daily Meal Production Record* (H1530 for

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children and H1530-A for infants at centers and emergency shelters, H1654 for adult day care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate.

1. Contracting Entity (CE) Name — Enter the name of the Contracting Entity.

2. Site Name — Enter the name of the child care center, adult day care center, or day care home provider.

3. CE ID — Enter the Contracting Entity's TX-UNPS CE ID.

4. Destination — Enter the destination of the trip.

5. Date of Trip — Enter the month, day, and year of the field trip.

6. Departure Time — Enter the time of departure for the field trip.

7. Return Time — Enter the return time from the field trip.

8. Field Trip Meal Service — Enter the requested information for meal service.

BALPSE — Check the appropriate box to indicate the meal type(s) served on the field trip.
B = Breakfast, A = A.M. Snack, L = Lunch, P = P.M. Snack, S = Supper, E = Evening Snack.

Where Meal Was Served — Indicate the location where the meal was served on the field trip. For example: a park, picnic area, shopping mall, another center, etc.

Transportation Method — Describe how the food was transported and how the food was held at proper temperatures.

9. Menu Served on Field Trip — Enter the individual food components served. This is not a meal production record. Meal production records for foods served on field trips must be completed.

10. Field Trip Attendance — Enter the requested information for field trip attendance. This is not a meal count. Meal counts for meals served on field trips must be completed on the *Daily Meal Count and Attendance Record* (H1535 for child and adult care centers and emergency shelters, or H1535-AT for At-risk afterschool care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate.

Name of Child — Enter the name of each program participant who attended the field trip.

11. Signature and Date of Signature — The person completing the form must sign and date the form, certifying that the information reported on the form is true and correct to the best of his or her knowledge.

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11123 Statement of Child's Enrollment Examples

The following sample forms may be used in child care centers and day care homes.

11123.1 Even Start Family Literacy Program

Example:

Statement of Child's Enrollment in the Even Start Family Literacy Program

This is to verify that _____ is currently enrolled as a participant in
(Name of child)
in the Even Start Family Literacy Program and that the child has not yet entered kindergarten.

_____

Name of Even Start Program

_____ _____

Signature of Even Start Program Director or Official Date

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11123.2 Head Start Program

Example:

Statement of Child's Enrollment in the Head Start Program

This is to verify that _____ is currently enrolled as a participant in
(Name of child)
the Head Start Program provided by _____.
(Name of Head Start Program)

_____ _____
Signature of Head Start Program Director or Official Date

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11123.3 Early Head Start Program

Example:

Statement of Child's Enrollment in the Early Head Start Program

This is to verify that _____ is currently enrolled as a participant in
(Name of child)
in the Early Head Start Program provided by _____.
(Name of Early Head Start Program)

_____ _____
Signature of Early Head Start Program Director or Official Date

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11130 Licensing (HHSC/DFPS) – Sample print screen

Child Care Search Result Details

TEXAS Health and Human Services | Texas Department of Family and Protective Services

Child Care Search Result Details

Operation Details

You may click on the question mark image (?) to view the Frequently Asked Questions (FAQ) page.

Operation Number:	888665
Operation Type:	Licensed Child-Care Home
Operation/Caregiver Name:	Happy Times Home Child Care
Location Address:	1234 Sunny Hill Sunshine, TX 77595
Mailing Address:	
Phone Number:	512-867-5309
County:	TRAVIS
Website Address:	
Email Address:	merryhappy@sunny.com
Administrator/Director Name:	Merry Happy
Type of Issuance: ?	Full Permit
Issuance Date:	10/1/2006
Conditions on Permit: ?	No
Accepts Child-Care Subsidies: ?	
Hours of Operation:	06:30 AM-06:00 PM
Days of Operation:	Monday - Friday
Total Capacity:	12
Licensed to Serve Ages:	Infant, Toddler, Pre-Kindergarten, School
Total Capacity:	12
Number Of Admin Penalties:	0
Corrective Action: ?	No
Adverse Action:?	No
Temporarily Closed:	No

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11140 Verifying Day Care Home Provider's Income

11141 Via IRS Form 1040

In the CACFP for Day Care Homes, all providers' households will include at least one self-employed person - the provider. Because of difficulties that may exist in verifying income for self-employed persons, Internal Revenue Service (IRS) Form 1040 may be a good source for verifying a provider's household income.

When Is It Appropriate/Not Appropriate To Use IRS Form 1040? — IRS Form 1040 is an excellent tool for sponsors to use in verifying the income of the provider's household members who are self-employed. Because providers are self-employed, these individuals will lack the normal documentation of earnings (such as wage stubs or other records of pay) that are readily available to most wage earners. Although the use of the prior year's tax form to verify self-employment income does not provide information which is as current as a biweekly pay stub for a wage earner, it often represents a reasonable estimate of a day care provider's current income.

In some cases, however, a provider's household income may have changed significantly between the end of a tax year and the time when the provider applies for Tier I status based on their household income. In such circumstances, it may be necessary for a sponsor to utilize sources other than, or in addition to, Form 1040 to verify current household income.

If, for example, there were two income earners in a household, Form 1040 would not be useful as the sole source for verification if either person's income had changed substantially. Other examples of such circumstances could include:

Change in Household Composition - The household's composition has changed since the end of the prior tax year, due to a spouse's death or a change in marital status. In this case, Form 1040 might still be an accurate representation of the remaining spouse's income, but the other spouse's income from the prior tax year would have to be excluded. In calculating and verifying current household income in such instances, please remember that losing some type of income may be at least partially replaced by other sources of income (e.g., separation or death will cause the loss of spousal income but may be at least partially offset by other sources of income, such as child support, alimony, or survivor's benefits).

Change in Household Income - Household income has changed markedly due to one member's loss or gain of regular employment. (Here, too, it is important to remember that Form 1040 may still serve as verification of income for another household member whose circumstances may not have changed, and that at least some portion of lost income may be offset by welfare benefits, unemployment compensation, or the like.)

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Change in Provider's Income - The provider's own income has changed because of gaining or losing children in day care. In this situation (where the sponsor should already be aware of this change because of changes to the provider's enrollment and meal claims), a reasonable attempt should be made to use Form 1040 (and attached forms showing business expenses) as a basis for calculating the provider's new income for verification purposes.

For example, the current income of a provider whose prior year earnings were based on providing care for two children for the entire year might reasonably be estimated to have doubled if the provider added two day care children on January 1st. However, sponsoring organizations are not expected to sort through boxes of receipts or to retain the services of tax consultants for the purpose of determining the provider's current household income. In some cases, such as when the provider has added several day care children with variable hours of care, it may be advisable for the sponsor to require the provider to fill out an estimate of his/her current year income and expenses on Schedule C of Form 1040 ("Profit or Loss from Business") or some similar statement of earnings and expenses.

Unemployment - A new day care home provider who was unemployed or employed in different pursuits in the prior year. In this case, IRS Form 1040 would not serve as a useful tool for verifying provider income (though it might, in some circumstances, verify other household members' income).

Finally, when using Form 1040 for verification, sponsoring organizations should take care to ensure that the entire household's income is reflected in the prior year's Form 1040. If, for example, the provider has used filing status "3" (Married, filing Separately), the sponsor would also have to review Form 1040s for other income holders in the household.

How to Use IRS Form 1040 to Verify a Provider's Household Income – The IRS and the CACFP define income differently; therefore, there is not a single line on Form 1040 that adequately captures "household income" for CACFP purposes. Although losses from self-employment, farming, other businesses, etc., and deductions from IRAs, pensions, and Social Security distributions are allowed for IRS purposes, they are not allowed for the CACFP. Business losses cannot be deducted when determining household income. For CACFP purposes, the income of a household member reporting a loss must be treated as "zero income."

Example: A provider's spouse reports earnings of $30,000 and the self-employed provider reports a business loss of $5,000 (-$5,000) on Form 1040. Although IRS would allow the provider's business loss to be deducted from the spouse's income to determine their total income ($30,000 - $5,000 = $25,000 total income), the CACFP does not allow the provider's business loss to be deducted from the spouse's income. The CACFP considers the provider's income to be "0" not "-$5,000"; therefore, the household income for CACFP purposes is $30,000, not $25,000.

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If you use Form 1040 to verify a provider's household income, you must always look at lines 7-22 of Form 1040 and:

- Treat all negative numbers reported on lines 12, 13, 14, and 18 as "zero income," NOT as losses.
- Use the income reported on lines 15a, 16a, and 20a, NOT the adjusted income reported on lines 15b, 16b, and 20b.
- Calculate the total household income by adding lines 7-11, 17, 19, and 21, any positive numbers (gains) reported on lines 12, 13, 14, and 18, and the distributions reported on lines 15a, 16a, and 20a.

Record Retention – You must retain copies of IRS forms and any other information you used to verify a provider's household income for 3 years from the end of the program year.

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11142 Without IRS Form 1040 – Sample Worksheet

WORKSHEET TO DETERMINE CURRENT MONTHLY INCOME *(without a tax return)*		
Last Month's Gross Income of a Provider		
Parent fees (provide copy of payment records)	$	
Other Child Care income (i.e., funded day care)	$	
Other income (if applicable)		
Salary received from outside employment	$	
Child Support (provide copy of court decree)	$	
Other	$	
CHILD AND ADULT CARE FOOD PROGRAM *The amount of reimbursement from last month (if applicable)*	**$**	
GRAND TOTAL OF PROVIDER INCOME		$
Last Month's Business Expenses of Provider *(You must attach itemized receipts for any expense you wish deducted)*		
Day Care Home food & food-related supplies	$	
Day Care business-related expenses	$	
Advertising	$	
Toys/Books/Art supplies	$	
Bank/Legal Fees	$	
Utilities (% Time & Space % age)	$	
Child Care Supplies (diapers, clean-up supplies)	$	
Mileage (miles from log x state rate)	$	
Other	$	
GRAND TOTAL OF ALL BUSINESS EXPENSES		$
_____ - _____ = _____ GROSS INCOME — BUSINESS EXPENSES — CURRENT NET INCOME "provider only"		

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11200 Training

Training is an organized, instructional activity designed to develop the skills and knowledge necessary for CEs to understand and comply with Program requirements and to improve the nutrition of the children and adults participating in the USDA nutrition programs they offer. The F&N Training Unit conducts both **nutrition** and **Program** training.

11210 Training Registration

Information on training sessions, for both general nutrition education and program-specific courses, is available at the TDA web site at http://www.squaremeals.org and click on "F&N Resources" and then select training.

Online trainings are available on a variety of topics and can be accessed at any time. Any mandatory trainings will produce a notice of training completion after the participant successfully completes the course. Optional trainings do not produce such a notice but can be documented, as necessary, to meet training requirements.

Training events are scheduled throughout the state each year, typically hosted by the Education Service Centers (ESCs). Although TDA and USDA have not established an annual nutrition training requirement, TDA may implement such requirements in the future.

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11220 Sample Training Documentation

This is a sample of a form the F&N Education Unit uses to sign in attendees at a training event to confirm that a registered participant attended and completed the training.

Child and Adult Care Food Program
Training Registration and Activity Report
For Contracting Entity Staff

Contracting Entity Name:	CE ID:	Date:
Location of Training:	Instructor(s):	
Training Topic(s):		

First and Last Name of Participant (Please print name clearly)	Position	Signature of Participant

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11230 USDA Team Nutrition Materials

TDA wants to ensure that all CEs and sites participating in the CACFP have copies of all the Team Nutrition technical assistance and support materials available to them. These items include:

Team Nutrition Technical Assistance and Support Materials

- The *Food Buying Guide for Child Nutrition Programs*, which provides important yield information necessary to ensure CEs and sites are meeting the meal pattern requirements for compliance with the CACFP. To view and/or print a copy of the *Food Buying Guide for Child Nutrition Programs*, go to https://foodbuyingguide.fns.usda.gov.
- *Grow it, try it, like it!* (https://fns-prod.azureedge.net/sites/default/files/resource-files/GTLI17ALL.pdf) which contains garden themed education kit with hands on planting activities.

Team Nutrition Posters

The following posters, as well as others, can be ordered from Team Nutrition:

- *MyPlate for Kids: Make Half your Plate Fruits and Vegetables*
- *Eat Smart to Play Hard*

To order Team Nutrition materials, visit the Team Nutrition website at:

http://teamnutrition.usda.gov/.

11240 Institute of Child Nutrition (ICN) Resources and Training

The Institute of Child Nutrition (ICN) provides online CACFP resources and training. Visit their website at theicn.org.

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11300 Other Resources

11310 Other Child Nutrition Publications

The TDA website at http://www.squaremeals.org offers many posters, publications, menu planners, videos, and contests for kids, information for parents, educational materials for child nutrition professionals, and links to other nutrition-oriented sites. All publications are available for free download or can be ordered through the site at no charge while supplies last.

11320 Sample Agreement – Donation of Excess Meals

NOTE: Donation of excess meals is not allowed for day care homes.

Begin sample:
THIS AGREEMENT is made and entered into this (day) _____ of ___ (month) ___, (year) ___, between _____ hereinafter referred to as the "Agency,"
(homeless shelter, food bank, food pantry)
and _____, hereinafter referred to as the "Center."
(CACFP Contracting Entity or Site)

WHEREAS the Agency is a nonprofit agency qualified to distribute food to needy persons in the community.
The parties hereby agree as follows:

1. *Term*—This Agreement is effective upon execution and shall remain in effect until terminated by the parties hereto. Either party may terminate this Agreement by providing the other party five (5) days advance written notification, delivered to its last known address.
2. *Duties of the Center*—The Center shall make available to the Agency at no cost and on a non-exclusive basis leftover food items from the Center's foodservice operation, for which the Center has determined it has no further use.
3. *Duties of the Agency*—The Agency shall pick up the food items at times and places mutually agreeable to the parties, transport them as necessary, and provide them at no cost to needy persons, all in a manner that complies with applicable laws and regulations.
4. *Delivery* - Agency shall take delivery at the following location(s): *(address)*
5. *Nondiscrimination*—Neither party shall employ discrimination practices in its performance hereunder based on race, color, national origin, sex, age, or disability.
6. *Agency Representative(s) not an Officer, Employee or Agent of the Center*—While engaged in performance of this contract, the *Agency Representative(s)* is an independent contractor and is not an officer, employee, or agent of the Center.
7. *Liability*—The Center shall not be liable to the Agency for personal injury or property damage sustained by the Agency in performing this contract, whether caused by the Center, its officers, employees or by third persons.

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8. *Hold Harmless and Indemnification*—The Agency agrees to release, discharge, indemnify, defend, and hold harmless the Center, its employees and agents for all illness, injury or damage to persons or property which may arise out of the activities covered under this Agreement, including the transportation, distribution, use or consumption of food items, irrespective of any negligence on the part of the Center.

   Furthermore, the Agency agrees to defend and fully indemnify the Center from any and all liability, loss or damage the Center or its agents or employees may suffer as a result of claims, demands, costs, penalties, litigation or judgments against it arising from any and all illness, injury or damage to any person, persons or property caused by or resulting from the activities covered under this Agreement, including the transportation, distribution, use or consumption of food items.
9. *Insurance*—The Agency shall carry sufficient general liability insurance to protect itself, its employees, and agents against all such claims (referenced in Paragraph 7, above) arising under this Agreement, and to indemnify and defend the Center.

NOTE: Include date and signature lines for each party if utilizing this sample agreement.

11400 Menu Planning

11410 Meal Planning

Below are resources to assist in planning healthy snacks and incorporating fruits and vegetables into menus.

http://teamnutrition.usda.gov/

http://www.health.gov/dietaryguidelines/

11411 USDA, Agricultural Research Service (ARS) National Nutrient Database for Standard Reference

Using the online USDA, ARS National Nutrient Database for Standard Reference to convert Nutrient Values per Portion Size of Breakfast Cereals

1. Go online to access the most current version of the ARS National Nutrient Database for Standard Reference at: https://data.nal.usda.gov/dataset/usda-national-nutrient-database-standard-reference-legacy-release#

2. Using the search function, type in the key word "cereals" to pull up all the cereal selections or enter a specific cereal you are looking for, then click "submit."

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3. Choose one cereal by clicking on the button to the left of the product you wish to select (the button will be filled in to show that you have selected). Only one selection is permitted. If you want data for a ready-to-cook cereal, make sure you select the cereal option described as dry, e.g., cereals, oats, dry. Click on "submit" which is at the bottom of the product list.

4. Select the quantities and units you want data for and click submit (one or more selections are permitted):
    a. **Ready-to-eat cereals**

       You will need to select both 1 oz and ¾ cup measures to determine which serving size weighs less. (If volume data is not available, use the manual conversion method shown in attachments B and C.)

        i. *Review nutrient data for one ounce (28.35 grams) of cereal*: Select 100 grams as the description, change 1.00 (100 grams) to 0.2835 (100 grams), **and**
        ii. *Review the nutrient data for ¾ cup (0.75 cup) of cereal*: Select the description measured in cups. The volume unit may be different depending on the cereal. If the unit is 1.00 (.75 cup), keep as 1.00 (.75 cup). If the unit is 1.00 (1 cup), change to 0.75 (1 cup). If the unit is 1.00 (.5 cup), change to 1.5 (.5 cup). If the unit is 1.00 (? cup), you will need to determine what number or fraction ¾ cup is of the unit provided in parentheses and change 1.00 to the number or fraction required to obtain ¾ cup.
        iii. *Click "submit"*

    b. **Ready-to-cook cereals, dry**

        i. *Review the nutrient data for 25 grams of dry cereal*: Select 100 grams as the description. Change 1.00 (100 grams) to 0.25 (100 grams). Make sure this option is selected.
        ii. *Click "submit"*

5. Compare the nutrient profile provided for the cereal to the FNS Nutrient Criteria for Breakfast Cereals.

    a. **Ready-to-eat cereals:**

       The nutrient profile will show the amounts for 28.35 grams (1 ounce) *and* for ¾ cup. The gram weight for ¾ cup will appear in the heading. Since cereals are credited 1 ounce or ¾ cup, whichever amount weighs less, choose the column having the lowest gram weight and use that column of nutrients to compare to the FNS Nutrient Criteria for Breakfast Cereals. To be creditable, the cereal must meet or exceed the minimum criteria for all five of the required nutrients.

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b. **Ready-to-Cook cereals, dry:**

Since the portion size for ready-to-cook cereals is 25 grams dry, all cooked cereals will be based on 25 grams dry, regardless of the amount of cooked cereal served in the meal or how much liquid is added to cook the cereal. Compare the nutrient values to the FNS Nutrient Criteria for Breakfast Cereals. To be creditable, the cereal must meet or exceed the minimum criteria for all five of the required nutrients.

6. Print the documentation and keep on file.

11412 Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal

Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal

Ready-to-Eat Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 1.0 ounce (28.35 grams) or the weight of ¾ cup – whichever amount weighs less.*

Brand Name _____ Cereal Name _____

1. The portion size of the ready-to-eat cereal on Nutrition Facts Label = _____ cup(s) _____ grams

2. Determine the weight of ¾ cup of the cereal:
   0.75 cup *divided by* _____ cup(s) of cereal from Nutrition Facts Label = _____ factor _____ factor *multiplied by* _____ grams/portion from Nutrition Facts Label = _____ grams per ¾ cup cereal

3. Which weighs less, One Ounce (28.35 grams) or _____ grams per ¾ cup cereal?
   The amount that weighs less = _____ grams; the nutrients in this amount of cereal will be used to compare to the FNS Criteria for Breakfast Cereals.

4. Determine the conversion factor based on the amount of ready-to-eat cereal that weighs less (Do not round up): _____ grams (amount that weighs less) *divided by* _____ grams (from Nutrition Facts Label) = _____ conversion factor for nutrients

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5. Calculate the nutrients from the Nutrition Facts Label to the nutrients in the amount that weighs less by multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per Amount that Weighs less	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)		x		=		6.7%	
Riboflavin (B2)		x		=		3.5%	
Niacin (B3)		x		=		4.2%	
Folic Acid (B9)		x		=		5.0%	
Iron		x		=		3.9%	

6. _____ All of the answers in Column F are "yes," the cereal is creditable using this option
_____ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal - EXAMPLE

Ready-to-Eat Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 1.0 ounce (28.35 grams) or the weight of ¾ cup – whichever amount weighs less.*

Brand Name General Mills **Cereal Name** Wheaties

1. The portion size of the ready-to-eat cereal on Nutrition Facts Label = 1 cup(s) 30 grams

2. Determine the weight of ¾ cup of the cereal:
0.75 cup *divided by* 1 cup(s) of cereal from Nutrition Facts Label = 0.75 factor
0.75 factor *multiplied by* 30 grams/portion from Nutrition Facts Label = 22.5 grams per ¾ cup cereal

3. Which weighs less, One Ounce (28.35 grams) or 22.5 grams per ¾ cup cereal?

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The amount that weighs less = 22.5 grams; the nutrients in this amount of cereal will be used to compare to the FNS Criteria for Breakfast Cereals.

4. Determine the conversion factor based on the amount of ready-to-eat cereal that weighs less (Do not round up): 22.5 grams (amount that weighs less) *divided by* 30 grams (from Nutrition Facts Label) = 0.75 conversion factor for nutrients

5. Calculate the nutrients from the Nutrition Facts Label to the nutrients in the amount that weighs less by multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per Amount that Weighs less	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)	50%	x	0.75	=	37.5%	6.7%	Yes
Riboflavin (B2)	50%	x	0.75	=	37.5%	3.5%	Yes
Niacin (B3)	50%	x	0.75	=	37.5%	4.2%	Yes
Folic Acid (B9)	50%	x	0.75	=	37.5%	5.0%	Yes
Iron	45%	x	0.75	=	33.7%	3.9%	Yes

6. __X__ All of the answers in Column F are "yes," the cereal is creditable using this option
_____ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

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11413 Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal

Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal

Ready-to-Cook Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 25.0 grams ready-to-cook dry cereal*

Brand Name _____ Cereal Name _____

1. The portion size of the ready-to-cook dry cereal on Nutrition Facts Label = _____ cup(s) _____ grams

2. Determine the conversion factor for nutrients (Do not round up): 25 grams *divided by* _____ grams (from Nutrition Facts Label) = _____ conversion factor for nutrients

3. Calculate the nutrients from the Nutrition Facts Label to the nutrients in 25 grams of ready-to-cook dry cereal multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per 25 grams Ready-to-Cook Dry Cereal	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)		x		=		6.7%	
Riboflavin (B2)		x		=		3.5%	
Niacin (B3)		x		=		4.2%	
Folic Acid (B9)		x		=		5.0%	
Iron		x		=		3.9%	

4. _____ All of the answers in Column F are "yes," the cereal is creditable using this option
   _____ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

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Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal - Example

Ready-to-Cook Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 25.0 grams ready-to-cook dry cereal*

Brand Name Quaker **Cereal Name** Instant Grits, Real Cheddar Cheese Flavor

1. The portion size of the ready-to-cook dry cereal on Nutrition Facts Label = 1 packet cup(s) 28 grams

2. Determine the conversion factor for nutrients (Do not round up): 25 grams *divided by* 28 grams (from Nutrition Facts Label) = 0.89 conversion factor for nutrients

3. Calculate the nutrients from the Nutrition Facts Label to the nutrients in 25 grams of ready-to-cook dry cereal multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per 25 grams Ready-to-Cook Dry Cereal	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)	10%	x	0.89	=	8.9%	6.7%	Yes
Riboflavin (B2)	10%	x	0.89	=	8.9%	3.5%	Yes
Niacin (B3)	10%	x	0.89	=	8.9%	4.2%	Yes
Folic Acid (B9)	10%	x	0.89	=	8.9%	5.0%	Yes
Iron	45%	x	0.89	=	40%	3.9%	Yes

4. X All of the answers in Column F are "yes," the cereal is creditable using this option
_____ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

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11420 Child Care Recipes

The USDA website provides child care recipes that meet program requirements for CACFP meal patterns when prepared and served as indicated. These recipes can be a useful resource when planning healthy and nutritious meals for the children you serve, while offering a variety of foods to keep children interested. CEs and sites should always ensure they are using the most updated recipes provided by USDA.

The recipes can be accessed on the Institute of Child Nutrition (ICN) website at theicn.org.

Select Child and Adult Care Food Program, and then select Recipes – USDA Recipes for Child Care

11430 Calculating Percentage of Calories from Fat

Example 1:

1 cup frozen cut green beans plus 1 pat butter contains 4 grams of fat. Total calories: 75

To calculate the percent of calories from fat in this food:

$$\frac{\text{\# grams of fat (4) X Calories/gram of fat (9)}}{\text{Total Calories (75)}} = 48 \text{ percent calories from fat}$$

Example 2:

1 cup low fat (2 percent) cottage cheese contains 4 grams of fat. Total calories: 205

$$\frac{4 \text{ X } 9}{205} = 18 \text{ percent calories from fat}$$

Example 3:

1 cupcake contains 4 grams of fat. Total calories: 120

$$\frac{4 \text{ X } 9}{120} = 30 \text{ percent calories from fat}$$

From this analysis, Example 3 (a cupcake) would be a better choice than Example 1 (green beans). This is due to the low-calorie content of the green beans and the higher calorie content of the cupcake. All three foods contribute the same amount of fat (4 grams) to a meal. They differ only in the amount of protein and carbohydrate and, therefore, in the calories contained.

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11500 USDA Child Nutrition (CN) Labels

The USDA, Child Nutrition (CN) Labeling Program provides food manufacturers the option to include a standardized food crediting statement on their product label. CN Labels must be authorized by USDA, FNS prior to use and manufacturers must have quality control procedures and inspection oversight that meet the FNS requirements.

USDA has made lists available of authorized CN labels issued to manufacturers since January 2005, on the FNS CN Labeling Program website.

The web address for the FNS CN Labeling Program is:

https://www.fns.usda.gov/cn/labeling-program

The website provides links to manufacturers and products that have met the Quality Control Program requirements for the CN Labeling Program, which includes the United States Department of Commerce's (USDC) seafood inspection program and the Food Safety and Inspection Service inspection directory for meat, poultry, and eggs. The lists are updated monthly.

For additional information on the CN Labeling Program and how it can be used in meeting meal pattern requirements, see Appendix C of your *Food Buying Guide for Child Nutrition Programs*, also available online at

https://foodbuyingguide.fns.usda.gov

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11600 Sample Day Care Home Provider Serious Deficiency Letters

11610 Notice of Day Care Home Provider Serious Deficiency

Prototype Letter: Notice of Serious Deficiency
[Note: this letter must be sent by certified mail/return receipt and by regular mail.]

Dear [*Provider*]:

This letter concerns the [*brief description of the basis for the serious deficiency determination – review, audit, etc. and date*] of your operation of the Child and Adult Care Food Program (CACFP).

SERIOUS DEFICIENCY DETERMINATION

Based on the [*review/audit/etc.*], we have determined that you are seriously deficient in your operation of the CACFP. If you do not fully and permanently correct all the serious deficiencies and submit documentation of the corrective action by the due date, we will:

- Propose to terminate your agreement to participate in the CACFP for cause, and
- Propose to disqualify you from future CACFP participation.

If you voluntarily terminate your agreement after receiving this letter, we will formally terminate your agreement, disqualify you and place your name on the National Disqualified List (NDL) without further opportunity for corrective action.

While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or site. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification.

However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the NDL until the debt has been repaid.

SERIOUS DEFICIENCIES AND REQUIRED CORRECTIVE ACTION

The following paragraph(s) detail each serious deficiency and the corrective action required.

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**[*Insert discussion of serious deficiencies and required corrective action, including disallowances/repayment of funds if applicable.*

***Each serious deficiency discussed must include a citation for the relevant serious deficiency in the regulations at 7 CFR 226.16(l)(2). If the serious deficiency is not specifically listed, cite: 7 CFR 226.16(l)(2)(ix), any other circumstance related to non-performance under the sponsoring organization-day care home agreement.*]**

You must provide documentation of the required corrective action for each of the serious deficiencies cited in this letter. The documentation must be received (not just postmarked) by [*corrective action deadline;* **may establish different deadlines for different serious deficiencies, but no more than 30 days**].

If we do not receive the documentation of your corrective action by the due date, or if we determine that the actions taken do not fully and permanently correct all the serious deficiencies, we will propose to terminate your CACFP agreement for cause and will propose to disqualify you. However, if we receive your documentation timely and it demonstrates full and permanent corrective action, we will temporarily defer the serious deficiency determination and not terminate your agreement of disqualify you from participation in the CACFP.

You may continue to participate in the CACFP during the corrective action period. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

You may not appeal the serious deficiency determination **[If there are disallowances, the provider may appeal those, and you must provide appeal rights for that; however, the provider may not appeal the serious deficiency determination.]**. However, if we propose to terminate your agreement for cause or propose to disqualify you, you will be able to appeal those actions, and you will be advised of your appeal rights and the appeal procedures at that time.

These actions are being taken pursuant to 7 CFR 226.16(l). If you have any questions, please contact **{enter contact information here}**.

Sincerely,
Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11620 Notice of Proposed Termination and Proposed Disqualification of Day Care Home Provider

Prototype Letter: Notice of Proposed Termination and Proposed Disqualification
[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Serious Deficiency Notice*] you were notified that you were determined to be seriously deficient in your operation of the Child and Adult Care Food Program (CACFP) and of the required corrective actions and due date for the corrective actions.

We received the documentation detailing the actions you have taken to correct these serious deficiencies on [*date*]. **[Insert if applicable: "We conducted a follow-up review on [date] to verify the adequacy of the corrective actions." Or "We did not receive the documentation required to demonstrate that the serious deficiencies were corrected."]**

Based on our review of the documentation **[insert if applicable: "and the follow-up review"]**, TDA has determined that you have not fully and permanently corrected the serious deficiencies that were cited in the Serious Deficiency Notice. **{Do not include this paragraph and the paragraph below if the Provider failed to provide any corrective action.}**

The following paragraphs detail each serious deficiency and its status based on our review of the corrective action documentation **[insert if applicable: "and the [date] follow-up review"]**. **[Insert discussion of each serious deficiency and the reasons why corrective action was inadequate (the corrective action may be adequate for some items and not for others; make sure you specify the status of the corrective action for each serious deficiency).**

PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION

As a result, we are proposing to:

- Terminate your agreement to participate in the CACFP for cause effective [*date*], and
- Disqualify you from future CACFP participation effective [*date*].

[The effective date for the termination/disqualification must be no earlier than 30 days from the date of this letter.]

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You may continue to participate in the CACFP until [*termination/disqualification effective date*] or, if you appeal the proposed actions, until the hearing official issues a decision on the appeal. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

If you voluntarily terminate your agreement after receiving this letter, we will formally terminate your participation and disqualify you and place your name on the National Disqualified List (NDL) without opportunity for appeal.

While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or site. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

APPEAL OF PROPOSED TERMINATION AND PROPOSED DISQUALIFICATIONS

You may appeal the proposed termination proposed disqualification. A copy of the appeal procedures is enclosed. **(Or you can include the appeal procedures here in the letter)**

If you submit a timely request for appeal the proposed actions will not take effect until the hearing official issues a decision. If you do not make a timely request for an appeal, your agreement will be terminated, and you will be disqualified effective [*date*].

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,
Sponsor Employee Name & Title

Enclosure
Appeal Procedures

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11630 Notice of Termination and Disqualification of Day Care Home Provider

11631 Provider Fails to Appeal

Prototype Letter: Notice of Termination and Disqualification (following failure to appeal) [NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Proposed Termination & Proposed Disqualification*] you were sent a Notice of Proposed Termination & Proposed Disqualification, which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [*date of Serious Deficiency Notice*] Notice of Serious Deficiency that you are seriously deficient in your operation of the CACFP.

You received the Notice of Proposed Termination & Proposed Disqualification on [*date received*]. You had until [*insert deadline for requesting appeal*] to submit any requests for appeals of the proposed actions. No requests for appeals were submitted by that deadline.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [*date*], and

- Disqualifying you from future CACFP participation effective [*date*].

[The effective date for the agreement termination and disqualification must match the date given in the Notice of Proposed Termination & Proposed Disqualification.]

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or site. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification.

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However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

You may not appeal the termination of the agreement for cause or the disqualification.

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,
Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11632 Sponsor Wins Appeal

Prototype Letter: Notice of Termination and Disqualification (after sponsor wins appeal) [NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Proposed Termination & Proposed Disqualification*] you were sent a Notice of Proposed Termination & Proposed Disqualification, which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [*date of Serious Deficiency Notice*] Notice of Serious Deficiency that you are seriously deficiency in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [*date of hearing official's decision*], the hearing official upheld our proposed actions.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [*date*], and

- Disqualifying you from future CACFP participation effective [*date*].

You may continue to participate in the CACFP until [termination/disqualification effective date]. We will pay any valid claims for reimbursement submitted by you for this period. You must submit the claims by the normal deadline.

[The effective date for the termination and disqualification must be the date of the hearing official's decision.]

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or site. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

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You may not appeal the termination of the agreement for cause or the disqualification.

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,
Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11640 Notice of Temporary Deferral

11641 Provider Wins Appeal

Prototype Letter: Notice of Temporary Deferral of Serious Deficiency, Proposed Termination and Proposed Disqualification (after provider wins appeal)
[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Proposed Termination & Proposed Disqualification*] you were sent a Notice of Proposed Termination & Proposed Disqualification, which proposed to terminate your agreement to participate in the Child and Adult Care Food Program (CACFP) for cause and proposed to disqualify you from further CACFP participation. These actions were based on the determination in our [*date of Serious Deficiency Notice*] Notice of Serious Deficiency that you are seriously deficiency in your operation of the CACFP.

You filed a timely appeal of the proposed termination and proposed disqualification. On [*date of hearing official's decision*], the hearing official overturned our proposed actions.

SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED

As a result, we have temporarily deferred our serious deficiency determination and will not terminate your agreement or disqualify you from participation in the CACFP. However, you must still implement procedures and policies to permanently correct the serious deficiency(ies). If at any time it is determined that you have not fully and permanently corrected the serious deficiencies, we will immediately propose to terminate your agreement and disqualify you from participation in the CACFP without further opportunity for corrective action.

Sincerely,

Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11642 Notice of Successful Corrective Action

Prototype Letter: Notice of Successful Corrective Action, Temporary Deferral of Serious Deficiency

[NOTE: this letter must be sent by certified mail/return receipt and regular mail]

Dear [*Provider*]:

On [*date of Serious Deficiency Notice*] you were notified that you were determined to be seriously deficient in your operation of the Child and Adult Care Food Program (CACFP) and of the required corrective actions and due date for the corrective actions.

We received the documentation detailing the actions you have taken to correct these serious deficiencies on [*date*. **[Insert if applicable: "We conducted a follow-up review on [date] to verify the adequacy of the corrective actions."]**

SERIOUS DEFICIENCY DETERMINATION TEMPORARILY DEFERRED

Based on our review of the documentation **[insert if applicable: "and the [date] follow-up review"]**, we have determined that you have fully and permanently corrected the serious deficiencies. As a result, we have temporarily deferred our serious deficiency determination and will not terminate your agreement or disqualify you from participation in the CACFP.

However, if at any time it is determined that you have not fully and permanently corrected the serious deficiencies, we will immediately propose to terminate your agreement and disqualify you from participation in the CACFP without further opportunity for corrective action.

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,

Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11650 Imminent Threat to Health or Safety at Day Care Home Provider

11651 Notice of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification

Prototype Letter: Notice of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification; Imminent Threat to Health or Safety

[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

We have received correspondence from the Texas Department of Family and Protective Services dated {enter date of correspondence} which indicates you have been cited for serious health or safety violations which constitute an imminent threat to the health or safety of participants and the public. See the attached correspondence for the specific violations.

As a result, we have determined you are seriously deficient in the operation of the CACFP and your participation in the CACFP, including all payments, has been suspended as of the date of this letter.

SERIOUS DEFICIENCIES

The following paragraph(s) detail each serious deficiency.

[*Insert discussion of serious deficiencies and required corrective action, including disallowances/repayment of funds if applicable.*

***Each serious deficiency discussed must include a citation for the relevant serious deficiency in the regulations at 7 CFR 226.16(l)(2). If the serious deficiency is not specifically listed, cite: 7 CFR 226.16(l)(2)(ix), any other circumstance related to non-performance under the sponsoring organization-day care home agreement.*]**

In addition, we are also proposing to:

- Terminate your home's agreement to participate in the CACFP for cause effective [*date*], and
- Disqualify you from future CACFP participation effective [*date*].

[The effective date for the termination/disqualification must be no earlier than 30 days from the date of this letter.]

<u>The suspension will remain in effect during the period of any appeal.</u> If you appeal the proposed termination and the proposed disqualification, the proposed actions will not take

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effect until the hearing official issues a decision on the appeals. If you do not make a timely request for an appeal, your agreement will be terminated, and you will be disqualified from future CACFP participation and placed on the National Disqualified List (NDL).

If you voluntarily terminate your agreement after receiving this letter, we will formally terminate your agreement and disqualify you from future CACFP participation and place your name on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in any CACFP institution or facility.

You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification. However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the NDL until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

APPEAL OF SUSPENSION, APPEAL OF PROPOSED TERMINATION, AND PROPOSED DISQUALIFICATION

You may appeal the suspension, proposed termination of your agreement for cause, and your proposed disqualification. A copy of the appeal procedures is enclosed. **(Or you can include the appeal procedures here in the letter.)**

However, if you request an appeal and the hearing official overturns the suspension, all valid claims for reimbursement submitted by you for the period of the suspension will be paid. As always, we will deny any portion of a claim that is determined to be invalid.

These actions are being taken pursuant to 7 CFR 226.16(l). If you need assistance, please contact {enter contact information}.

Sincerely,

Sponsor Employee Name & Title

Enclosure
Appeal Procedures

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11652 Notice of Termination and Disqualification – Sponsor Wins Appeal

Prototype Letter: Notice of Termination and Disqualification (after sponsor wins appeal); Imminent Threat to Health or Safety
[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Suspension*] you were sent a Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification; Imminent Threat to Health or Safety, which suspended your participation in the CACFP and proposed to terminate your CACFP agreement disqualify you from further CACFP participation. These actions were based on the determination that you are seriously deficient in your operation of the CACFP due to an imminent threat to the health or safety of participants or the public.

You filed a timely appeal of the proposed termination and proposed disqualification. On [*date of hearing official's decision*], the hearing official upheld the proposed actions.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your agreement to participate in the CACFP for cause effective [*date*], and
- Disqualifying you from future CACFP participation effective [*date*].

[The effective date for the termination and disqualification must be the date of the hearing official's decision.]

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or facility. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification.

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However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,

Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11653 Notice of Termination and Disqualification – Provider Fails to Appeal

Prototype Letter: Notice of Termination and Disqualification (following failure to appeal); Imminent Threat to Health or Safety
[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Suspension*] you were sent a Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification; Imminent Threat to Health or Safety, which suspended your participation in the CACFP and proposed to terminate your CACFP agreement disqualify you from further CACFP participation. These actions were based on the determination that you are seriously deficient in your operation of the CACFP due to an imminent threat to the health or safety of participants or the public.

You received Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification; Imminent Threat to Health or Safety on [*date received*]. You had until [*insert deadline for requesting appeal*] to submit any request for an appeal of the proposed actions. No request for an appeal was submitted by that deadline.

TERMINATION AND DISQUALIFICATION

As a result, we are:

- Terminating your home's agreement to participate in the CACFP for cause effective [*date*], and
- Disqualifying you from future CACFP participation effective [*date*].

[The effective date for the agreement termination and disqualification is the date stated in the Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification; Imminent Threat to Health or Safety.]

Upon disqualification, you will be placed on the National Disqualified List (NDL). While on the NDL, you will not be able to participate in the CACFP as a day care home provider. In addition, you will not be able to serve as a principal in, or perform any key CACFP functions for, any CACFP institution or facility. You will remain on the NDL until such time as the Texas Department of Agriculture Food and Nutrition in consultation with the United States Department of Agriculture Food and Nutrition Service determines that the serious deficiencies have been corrected or until 7 years after your disqualification.

However, if any debt relating to the serious deficiencies has not been repaid, you will remain on the list until the debt has been repaid. **[Insert if applicable: You owe a debt in the amount of {enter dollar amount}.]**

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You may not appeal the termination of your agreement for cause or your disqualification.

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,

Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11654 Notice of Temporary Deferral – Provider Wins Appeal

Prototype Letter: Notice of Deferral (Deferring Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification (after provider wins appeal); Imminent Threat to Health or Safety
[NOTE: this letter must be sent by certified mail/return receipt and regular mail.]

Dear [*Provider*]:

On [*date of Notice of Suspension*] you were sent a Notice of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification; Imminent Threat to Health or Safety, which suspended your participation in the CACFP and proposed to terminate your CACFP agreement disqualify you from further CACFP participation. These actions were based on the determination that you are seriously deficient in your operation of the CACFP due to an imminent threat to the health or safety of participants or the public.

You filed a timely appeal of the suspension and the proposed termination and proposed disqualification. On [*date of hearing official's decision*], the hearing official overturned the suspension and proposed actions.

SERIOUS DEFICIENCY DETERMINATION, SUSPENSION, PROPOSED TERMINATION AND PROPOSED DISQUALIFICATION TEMPORARILY DEFERRED

As a result, we have temporarily deferred our serious deficiency determination and will not terminate your agreement or disqualify you from participation in the CACFP. However, you must still implement procedures and policies to permanently correct the serious deficiency(ies). If at any time it is determined that you have not fully and permanently corrected the serious deficiencies, we will immediately propose to terminate your agreement and disqualify you from participation in the CACFP without further opportunity for corrective action.

We will pay any valid claims for reimbursement submitted by you for the period of the suspension. You must submit these claims by [*insert a date that will give the provider an appropriate length of time to submit these claims*].

These actions are being taken pursuant to 7 CFR 226.16(l).

Sincerely,

Sponsor Employee Name & Title

cc: F&N Community Operations at Community.Ops@TexasAgriculture.gov

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11700 Additional Information

11710 Imported Plasticware Safety

Any supplier with an office or address in the United States must abide by Food and Drug Administration (FDA) regulations. While many manufacturers use labor and products from all over the world, they still must follow FDA rules regarding the chemical composition of the final product.

The FDA also states that imported plasticware that does not contain bright colors or is overly soft or flexible provides little risk of migration of chemicals into food. They further noted that food should not be heated or microwaved in imported plasticware unless the plasticware is specifically made for microwave use.

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Section 12000
Frequently Asked Questions

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12000
Frequently Asked Questions

12010 USDA Memos

To view USDA questions and answers related to the CACFP in their entirety go to:

http://www.fns.usda.gov/cacfp/policy

12020 Oversight, Training and Monitoring

1. **Question:** A center documents on their meal production record that fresh apples were served at lunch. There are no receipts for fresh apples for that month, however the center has provided more than enough receipts to document all CACFP funds were used on allowable costs.
   a. Is the sponsor supposed to disallow this meal based on the fact that the additional documentation of purchase of the apples is missing?
   b. If the sponsor was present at this particular meal and observed apples being served, should be meal be disallowed based solely on the fact that the center did not provide this receipt?
   c. If the previous reviews conducted by the sponsor resulted in no findings, should this be a factor when considering the validity of the meal production record to document the service of fresh apples?

   Answer: A sponsor that is reviewing receipts against meal production records, and cannot verify the purchase of foods the site documents on meal production records would be expected to explore other documents (such as recycled foods, inventory logs, documentation of donations) to determine if the lack of purchase was due to that food item already being present in stock. If the sponsor cannot substantiate that the site had purchased the food, or had the food in inventory, then the sponsor should disallow the meal(s).

   A sponsor that observed a meal service that included apples would not necessarily have to disallow *that meal* based on recordkeeping, but would have to obtain corrective action from the site to ensure proper recordkeeping in the future.

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Previous reviews should be taken into account when determining if failure to comply with Program requirements might possibly result in a referral of the responsible principal/individual to TDA for serious deficiency.

2. **Question:** Is the sponsor supposed to use the collection of receipts to verify not only that the center is spending all CACFP funds on allowable costs, but also to verify purchase of specific foods? If so, which, foods (only fresh foods?) and at what frequency? every month? and for all sites? How does this compare to TDA's review procedures for CE Centers?

   Answer: Sponsors must ensure that sites are compliant with financial management requirements found in the CACFP Handbook, 2 CFR Part 200, 7 CFR Part 226, and FNS Instruction 796-2, Financial Management - Child and Adult Care Food Program, which require that CACFP funds are spent on allowable items. In addition the items must be reasonable and necessary to operate the program. In order to determine sites have submitted accurate meal counts of reimbursable meals, sponsors are expected to provide oversight on a monthly basis, that includes ensuring that meals meet CACFP meal pattern requirements and that sites have all documentation to support the meals claimed, including receipts. Sponsors are responsible for the accuracy of the claim submitted on behalf of their sites each month.

3. **Question:** A center purchases 7.5 pounds of apples to serve at lunch for 100 students (ages 3-5). The meal service is family style and there are 3 pounds of apples left from lunch. The center serves the 3 pounds to 20 children the next day at breakfast. The meal production record shows 7.5 pounds of apples served at lunch and 3 pounds of apples served at breakfast. The receipt is for 7.5 pounds of apples. Repeat this occurrence for all family style meals for all foods....Should the meals be disallowed based on the receipts in family style meal services?

   Answer: Family style meal service requires the full amount of each component required for each participant is placed on the table, regardless of how much is actually taken by each participant. If the center has leftovers it plans to recycle it should be documented (reference TDA Form H1568, *Record of Recycled Food*). A sponsor would be expected to review all available records (receipts, inventories, record of recycled food and documentation of donations) against meal production records to ensure the center had enough food on hand to have served the meals it is claiming.

4. **Question:** The center reimbursement for the year is $4000.00. The receipts the center has submitted to document expenditures total $3900.00 for the year. Should the sponsor deduct $100 from the center and $15 from its admin funds and send it back to TDA?

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Answer: After ensuring that the site does not actually have any additional allowable operating costs (reference FNS Instruction 796-2) for which the funds could be attributed, the sponsor would follow the procedure in Section 7000, *Financial Management*, Item 7400, *Nonprofit Food Service* and develop a plan for the site to reduce the excess balance. If it becomes necessary (at the end of the Program Year), to return the funds, including the administrative, the sponsor should follow the procedure in Section 3000, *Program Agreement*, Item 3211, *Reimbursement of Meals*.

5. **Question:** The center submits receipts for purchases that indicate the purchase was made as an Electronic Benefit Transfer. Is there a streamlined procedure for reporting this?

   Answer: With the exception of emergency shelters, centers may not use a households SNAP benefits to purchase food for its center. Should a sponsor discover this occurring, the center should be reported to the Texas Health and Human Services Commission at https://oig.hhsc.texas.gov/

   Additionally, those costs would be unallowable and, the sponsor may contact TDA to determine if the responsible principal or individual at the center should be placed in the serious deficiency process.

6. **Question:** The center reports to the sponsor that their receipts for the current claim month have been destroyed in a flooded office. Should all meals be disallowed for the month? (the center's annual reported CACFP expenses will total more than the annual reimbursement)

   Answer: If the sponsor has verification that a natural disaster had destroyed that centers records TDA would not expect the sponsor to take an adverse action.

7. **Question:** Meal Production Records - Clarification of disallowance procedures
   a. A Center serves lunch to 66 children (ages 1-2) and documents on the meal production record that they served 2 gallons of milk, or 32 1/2c servings. They needed 33 1/2c servings for 66 children, or 2.06 gallons. Should the sponsor disallow all meals because it is unknown which children were shorted or should the sponsor disallow only 1 meal?
   b. If there are multiple age groups, should the sponsor disallow the fewest meals possible, for example choose only one 6-12 year old meal for a one cup shortage vs. two meals for the 1-2 year old group?

   Answer: If an insufficient quantity of food was prepared the sponsor may allow the site to claim the number of meals for which sufficient quantities were available, and may minimize the disallowance by disallowing the fewest meals possible. The sponsor would also require corrective action from the site to ensure the non-compliance does not occur again, and provide training to the site on the meal pattern requirements and meal production, both preparing the correct components in the correct quantities and proper documentation of the meal production record.

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