Frequently Asked Questions
Summer 2023 Operations

Guidance Subject to Change – Check dates for the latest version

This FAQ document covers operations for Summer 2023. The Texas Department of Agriculture (TDA) created these FAQs based on recent USDA policy guidance specific to the September 2022 Final Rule, post-COVID-19 operations, and existing USDA and TDA guidance from the previous school year and summer operations.

This document is used primarily to document recent guidance and changes affecting the upcoming Summer. By the end of each Summer, any guidance that represents permanent policy changes will be removed from this FAQ and added to TDA's SFSP Supplemental Handbook and Administrative Review Manual (ARM) handbooks, as applicable. Please read each question and response carefully and thoroughly as each question covers a very specific topic; **you should not mix responses from multiple questions to arrive at an answer for questions**. Please contact your ESC with questions.

CEs must understand and adhere to all applicable requirements of the program(s) they are operating, including the guidance set forth in this FAQ. All program requirements remain in effect unless specifically waived by USDA and as described in this FAQ. Updates to this document will be in yellow.
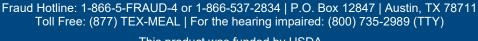
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1. **What is the Summer Food Service Program (SFSP) Final Rule and how does it affect Summer 2023 operations?**

On September 19, 2022, USDA issued Final Rule: *Streamlining Program Requirements and Improving Integrity in the SFSP* (SFSP Final Rule 2022). Through this final rule, USDA is codifying changes to the regulations that will streamline requirements among child nutrition programs, simplify the application process, enhance monitoring requirements, offer more clarity on existing requirements, and provide more discretion to TDA to manage program operations. Specific details are contained within this FAQ.

2. **If I am operating the Seamless Summer Option (SSO) for the summer, how will reimbursement rates be affected as compared to Summer 2022?**

In Summer 2023, after June 30, 2023, reimbursement for SSO meals returned to the respective NSLP rates for meals and snacks. The 2023-2024 reimbursement rates for NSLP are posted here: https://squaremeals.org/Programs/National-School-Lunch-Program/Reimbursement-Rates.

3. **Are non-congregate and parent pick-up flexibilities available to SFSP/SSO operators in Summer 2023?**

Non-congregate and parent pick-up flexibilities will **only** be available to SFSP and SSO operators in rural areas that qualify for TDA's Summer 2023 Non-congregate Feeding Pilot Program. **Any CE that does not meet the criteria for inclusion in the pilot program must operate their respective summer programs in accordance with the applicable regulations and the guidance within this FAQ, including congregate service.**

Refer to the Non-Congregate Feeding Pilot Program page[i] on SquareMeals and Pilot Program FAQs[ii] for more information.

4. **Can non-congregate feeding in extreme heat be implemented this summer?**

On July 10, TDA received a waiver allowing for non-congregate service at SFSP or SSO sites that meet the following criteria when experiencing dangerous levels of heat:

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- Sites are outdoors and exposed to the weather.

- There are no alternative, temperature-controlled sites at which to provide congregate summer service.

- The National Weather Service (NWS) has issued a Heat Advisory, Excessive Heat Warning, or Excessive Heat Watch for the area. CEs requesting this waiver must maintain proof of NWS alerts within their documentation, and TDA will verify that a notice was issued prior to approving a waiver.

No non-congregate service waiver will be approved for service prior to July 10, 2023. For any non-congregate service **between July 10 and July 18**, when TDA first announced the availability of the waiver, CEs must provide written documentation of an NWS alert before being approved.

CEs must submit a single form for each day that non-congregate service occurs. While the CE does not have to wait for approval to serve non-congregate meals, if TDA discovers that any of the above criteria have not been met, meals served on those days will be disallowed.

Note that meals served under this waiver must be grab-and-go in nature and served directly to children. **Parent/Guardian pickup without a child present is not allowable under this waiver.** Additionally, only a single day's meals may be bundled at a time. Multi-day bundling is not allowed.

The [Request to Provide Non-Congregate Feeding during Extreme Heat form is currently available here](#)[iii] and on the Summer Meal Programs Administration/Forms table located here: https://squaremeals.org/Programs/Summer-Meal-Programs/Administration-Forms. Please contact SNPWaivers@texasagriculture.gov with any issues submitting the form.

Finally, approval to use this waiver is **not** contingent on whether or not the CE indicated in its application the intent to participate in the heat demonstration project for Summer 2023. USDA did not implement the heat demonstration project in 2023.

5. **Are there any meal service time flexibilities available in Summer 2023?**

Yes. Meal service time flexibilities that had been available via waiver are now written into regulation per the SFSP Final Rule 2022. The meal service time requirements have been simplified as follows:

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- All sites, except residential camps, must allow a minimum of at least one hour to elapse between the end of one meal and the beginning of another.

- Meals claimed as a breakfast must be served at or close to the beginning of a child's day and prohibit a three-component meal from being claimed for reimbursement as a breakfast if it is served after a lunch or supper is served.

The SFSP Final Rule 2022 also allows TDA to approve reimbursement for meals served outside of the approved meal service time if an unanticipated event occurs (for example, delayed meal deliveries, inclement weather that delays the start of the meal service, delayed public transportation utilized by participants). TDA is developing a request form that CEs can use under these circumstances.

6. **May I serve meals on weekends and holidays?**

Yes. Per regulation, during Summer 2023, SSO and SFSP operators may submit claims for meals served on a holiday or during the weekend if that site's approved application reflects that meals are being served on those days.

7. **How have SFSP regulations regarding serving meals on field trips changed?**

The SFSP Final Rule 2022 states that CEs wishing to close their usual sites during a field trip (for example, if there is limited staff coverage), must receive approval from TDA prior to the field trip. However, because TDA has a waiver to delay implementation of the Final Rule until January 1, 2024, this requirement will not be in effect for Summer 2023. CEs that plan to close a site during a field trip are still encouraged to notify the community of the change in meal service, provide information about alternative open sites that are likely to be accessible to community children, and maintain documentation proving that this notification was provided to the community. These requirements will be enforced in Summer 2024.

Per TDA policy, SFSP CEs must notify TDA via site application amendment 15 days prior to any field trip that affects location of meal service. If TDA is not notified prior to the SFSP field trip, meals served may be considered "consumed off-site" and TDA has the discretion to disallow reimbursement for those meals.

8. **Are offsite monitoring waivers available for SFSP/SSO operators in Summer 2022?**

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No. Note that while meal service must be observed onsite, required reviews of documentation (including but not limited to meal ordering documentation, invoices, training logs, mileage logs, training materials, Food Service Management Company documentation, and menus) can still occur via offsite desk review. For best practices and strategies for implementing aspects of a review offsite, please refer to USDA's guidance, located here: https://www.fns.usda.gov/cn/oversight-monitoring-onsite-offsite-sfsp-guidance

9. **Is there still a first week site visit waiver available for existing sites and sites with no significant operational issues?**

No. A first week site visit waiver is no longer required, as site visit flexibilities have been written into regulation per the SFSP Final Rule 2022. **Note that these flexibilities are different from what was previously available per the first week site visit waiver.** The SFSP Final Rule 2022 modified previous flexibilities so that any new sites or sites with previous operational issues must be reviewed **within the first two weeks of operation**.

Note that CEs are still required to conduct a full review of food service operations at each site within the first four weeks of operation and thereafter maintain a reasonable level of site monitoring. The modified SFSP regulations allow for the food service review to occur at the same time as the site visit during the first two weeks of operation.

TDA has released new sample First Two Weeks Site Visit and Site Review forms on the Summer Meals Administration/Forms page[iv] of SquareMeals.org.

10. **In the absence of the first week site visit waiver, how should I answer Question 44 in the site application asking if this site requires a first week site visit waiver?**

The TX-UNPS update removing Question 44 will not be implemented prior to the opening of applications on January 15. For any existing sites or sites with no operational issues, CEs should enter Yes on Question 44 if you are not conducting a site visit within the first two weeks of operation. If you intend to review any of those sites within the first two weeks, select No. If a CE selects Yes for a new site or a site with operational issues, TDA will return the application with an explanation that (1) there is no longer a first week site visit waiver and (2) because the sites are new or have significant issues, the CE is required to conduct a site visit within the first two weeks of operation.

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11. **Will any meal pattern flexibilities be available in Summer 2023?**

Currently, there are no nationwide meal pattern flexibilities available in Summer 2023.

12. **How do I request an age/grade waiver for SSO?**

Age/grade requirements in SSO may be waived **by the site** if the CE is experiencing challenges implementing the age/grade group requirements due to student safety and access concerns. The process for requesting an age/grade waiver is:

- Log into TX-UNPS, select the School Nutrition Programs Module, select Applications, and finally select Download Forms.
- Select SNP-000 from the Download Forms menu.
- From the NSLP/SBP Exemptions and Waivers portal, select Seamless Summer Option Age/Grade Group Meal Pattern Portion Size.
- Complete the Age/Grade Waiver form, listing the sites affected, the most common age/grade attending the site, and justification for why a waiver is required.
- An authorized representative of the CE operating the SSO must attest to the information provided in the waiver by signing the last page of the form.
- Once submitted, TDA will process the waiver and contact the CE to request any additional information needed. TDA will notify the CE of the approval or disapproval of SSO Age/Grade waivers for each site via email.

13. **What are the new regulations related to Offer Versus Serve (OVS)?**

Per the SFSP Final Rule, the OVS option is only available to school districts, also knowsn as School Food Authorities (SFAs). SFAs that opt into OVS service must use either the meal pattern requirements for NSLP/SBP, including portion sizes and all required components, or the SFSP meal pattern and SFSP OVS guidelines as follows:

OVS at Breakfast:

- All the required breakfast food components in the minimum required serving sizes must be offered through at least **4** different food items;

- The 4th food item offered can be a serving of a fruit/vegetable, bread/bread alternate, or meat/meat alternate

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- All the food items must differ from each other; and

- A child must select at least 3 of the **food items** offered.

OVS at Lunch or Supper:

- All the required lunch components in the minimum required serving sizes must be offered through at least **5** different food items;

- All the food items must differ from each other; and

- A child must take at least 3 **food components**.

Lunch and supper OVS requirements differ from breakfast OVS requirements. While a child must select 3 food items at breakfast, at lunch, and at supper, a child must take 3 different food components.

Note that the Seamless Summer Option Age/Grade Group Meal Pattern Portion Sizes Exemption does not apply to SFSP. An SFA CE may also administer OVS at a non-school site. Refer to the SFSP Supplemental Handbook for more information.

14. **Can I operate a mobile route, and if so, do I need a site application for each stop along the route?**

Mobile routes are permitted during the Summer. However, if the CE was not approved to participate in the 2023 Non-congregate Feeding Pilot Program, then each stop along the route must adhere to all standard, congregate service requirements. Therefore, each site requires its own site application, meal service times, and health and safety documentation. All meals must be consumed onsite at each stop along the route.

15. **Are there any other deviations to the SFSP application process?**

Yes. The SFSP Final Rule 2022 requires TDA to collect CE site recruitment strategies in its application. Because this functionality does not yet exist in TX-UNPS, for Summer 2023 only, **all CEs** applying to operate SFSP must complete the [SFSP Application Addendum – Recruitment Strategies online form.](#)[v] This simple form asks a single multiple choice question about the methods of outreach a CE will use to attract potential SFSP serving sites in Summer 2023. CEs are encouraged to submit this form as soon as possible, even if you are not ready to submit your application in TX-UNPS. **TDA**

cannot approve an application until this addendum is submitted, which could result in a delay in operations.

Per the SFSP Final Rule 2022, experienced sponsors that are not participating in another Child Nutrition Program are required to submit the Viability, Capability, and Accountability (VCA) Checklist every three years. TDA is requesting a waiver of this requirement for Summer 2023 so that TX-UNPS system enhancements to the VCA Checklist can be implemented. TDA will provide updates on this waiver request along with further instructions, as required, within this FAQ, newsletters, email correspondence, and on SquareMeals.org.

16. **Are closed enrolled sites in low income eligible areas able to operate SFSP or SSO without establishing a roster of children in which 50% qualify for free or reduced-price meals?**

Yes. The flexibility once provided by waiver that granted a closed enrolled site eligibility to operate based on being in a low income area is now written in regulation per the SFSP Final Rule 2022. **However, a CE must justify in its site application why the closed enrolled site is not open to the community.** In most cases, TDA will only approve a closed enrolled site to operate in an eligible area if the site meets both of the following criteria:

- All children enrolled reside in the area where the site is located.

- The site is providing a specific enrichment program that requires enrollment. **NOTE:** Academic summer school is not an allowable enrichment program; a summer meals program cannot be limited only to participants in academic summer school.

Under very limited circumstances, and on a case-by-case basis, TDA may approve a closed enrolled site in light of **evident** safety concerns. CEs that believe a safety concern requires closed enrollment must provide justification in their site applications. Examples of justification include but are not limited to:

- Specific examples of recurring incidents at or near the site.

- Police mandate to limit participation to a defined enrollment group (ex. enrolled student population) **NOTE:** Under no circumstance can a closed enrolled site be established to feed academic summer school students only. See below for more information.

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CEs citing safety concerns must also identify in the site application how enrollment will be established. Children cannot be denied enrollment because they are not known by site staff. Enrollment must be based on objective, pre-defined criteria (for example, student enrollment roster).

Sites that are not approved to operate closed enrolled, but that lack the staffing or capacity to control a large number of participants, may be approved to operate an open restricted site, at which a limited number of participants are allowed to congregate at any given time.

17. **May I operate a closed enrolled SSO or SFSP site to serve only students enrolled in academic summer school?**

No. SFSP and SSO may not operate closed enrolled sites to feed children enrolled in academic summer school. Per regulation, a site serving academic summer school students must be open to the community. Under rare circumstances, as described in the previous question, a school may be approved to operate a closed enrolled site for safety purposes. If approved to do so, the site must be open to **all enrolled students** at the school and not just the academic summer school students onsite.

18. **May I operate extended NSLP to provide meals only to students enrolled in academic summer school? Would I be allowed to operate SSO or SFSP at other district sites not offering summer school classes?**

Yes. CEs may operate "extended" NSLP to provide meals to students enrolled in academic summer school. An SFA that wishes to use this option for its summer school students may operate SSO or SFSP at other district sites consistent with the requirements for those programs. CEs that wish to switch must apply via TX-UNPS to TDA for review and approval per established procedures.

Non-CEP CEs wishing to use the NSLP extended option must adhere to the free, reduced-price, and paid meal benefit categories.

NOTE: If your summer school session extends beyond June 30, 2023, you must ensure that a completed NSLP application for SY 2023-2024 has been approved, since any meals claimed after June 30, 2023, will apply for the next NSLP school year.

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19. **May camps use area eligibility to establish site eligibility?**

No. Camps, as defined by SFSP regulation and SSO guidance, may not use area eligibility to establish site eligibility; they must collect and maintain individual household applications and are reimbursed **only for those enrolled children who meet the free or reduced-price eligibility standards**.

Camps are defined as residential summer camps and nonresidential day camps that offer a regularly scheduled food service as part of an organized program for **enrolled** children. Nonresidential camp sites must offer a continuous schedule of organized cultural or recreational programs for enrolled children between meal services.

NOTE: Sites promoting themselves as "camps" that are offering non-credit educational activities to any children who wish to participate will not be given the "camp" designation as defined by regulation if there is no enrollment roster being maintained.

20. **How did the SFSP Final Rule 2022 update requirements for notifying the public or enrollees at closed enrolled/camp sites?**

The Final Rule clarified in regulation the flexibility that allows TDA to issue a statewide media release on behalf of all open Summer sites. However, the Final Rule also added to regulation that sponsors of camps and all closed enrolled sites are required to notify participants or enrolled children of the availability of free meals and if a free meal application is needed (for example, at closed enrolled sites in non-eligible areas where 50% of the children enrolled must qualify for free or reduced price meals).

If an application is required at a closed enrolled site or camp, income eligibility guidelines must be included with the notification. All notices to participants and enrollees must include the Civil Rights nondiscrimination statement.

TDA has developed and released three notification templates (for camps, closed enrolled sites in eligilble areas, and closed enrolled sites in non-eligible areas). These notification templates are available on the [Summer Meals Administration/Forms page](#).[vi]

21. **Are there any area eligibility waivers available in Summer 2023?**

No. The authority granted to USDA in the Keep Kids Fed Act that allowed area eligibility waivers during Summer 2022 has not been extended.

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22. **How is school data used to establish area eligibility for Summer 2023?**

Given that schools returned to processing applications in SY 2022-2023, area eligibility for non-CEP schools is based on 50% or greater free/reduced claiming percentages from **October 2022** and will be valid for five years.

NOTE: Any summer sites that established new eligibility in Summer 2022 may only use this determination **through Summer 2024,** as that data was based on February 2020 data.

CEP schools will use the standard method for determining area eligibility for Summer 2023, which is based on having an Identified Student Percentage (ISP) of 31.25 or greater. Determination based on this ISP data is valid for the standard five years.

23. **How has the role of site supervisor been defined in regulation per the SFSP Final Rule 2022?**

Per the SFSP Final Rule 2022, the site supervisor is now defined in regulation as the individual on site for the duration of the meal service, who has been trained by the sponsor and responsible for all administrative and management activities at the site, including, but not limited to, maintaining documentation of meal deliveries, ensuring that all meals served are safe, and maintaining point of service meal counts.

The site supervisor plays an integral role in supporting the SFSP and provides front-line assistance in maintaining program integrity and efficient operations. While the site supervisor is the individual ultimately responsible for overseeing operations at the site and **must** be on site for the **duration** of every meal service, the site supervisor may delegate tasks to another staff member so long as that staff member is overseen by the site supervisor and has appropriate training for the role that the individual is expected to fill.

24. **How do I know if I am required to operate a Summer Meal program for 30 days per the Texas Summer Mandate?**

Schools that did not seek a waiver before the January 31st deadline must offer a Summer Meals Program for at least 30 calendar days this summer. **The 30-day requirement must occur during the time schools are normally recessed for the summer.**

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Note that the 30 days of operations may include a reasonable number of days when meals are not served as long as program-related tasks are occurring (for example, setting up and closing operations). The 30 days may also include meals served on the weekend.

25. **The schools in my district have different start dates for SY 2023-2024. When is my district required to stop SFSP operations and begin NSLP?**

SFSP operations can continue in a single attendance zone until all schools within that attendance zone have started per the published school year calendar. Once the school year has started for all schools in a single attendance zone, SFSP operations in that area must stop.

26. **Am I required to collect racial and ethnic data during the COVID-19 public health emergency?**

Yes. The requirements related to the collection of racial and ethnic data are not waived in response to the COVID-19 public health emergency. Summer operators must, once per summer, attempt to gather the race and ethnicity of individual participants attending summer sites.

27. **Can I use visual observation to determine a participant's race or ethnicity?**

No. Effective May 17, 2021, federal policy prohibits visual observation as an allowable practice for gathering this data; the preferred method is self-identification and self-reporting. A best practice for this includes obtaining the information from parents or guardians.

28. **If a child picks up a meal without a parent or guardian present, must I verbally ask the child to self-identify his or her race and ethnicity? What if a child participant is too young to understand the purpose or nature of the question?**

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 for 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 program operators to continue to try to capture the data.

TDA has developed a new Collection of Child Nutrition Program Participant Racial/Ethnic Data Prototypes form[vii] to assist program operators in capturing racial and ethnic data to the best extent possible. This form is available in the applicable tables on the Summer Meals Program Administration and Forms[viii] page on SquareMeals.org.

29. **What parameters has USDA established for collecting data from parents or guardians?**

Parents and guardians may be asked to identify the racial or ethnic group of the participating child/student only after it has been explained to them the following:

- 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.

30. **In the absence of good participant data, may I report aggregate racial/ethnic data on potential participants?**

Program operators may only report aggregate data if they have attempted to obtain individual participant data but could not do so. Operators must show proof during an Administrative Review that they attempted to gather individual data.

Aggregate data must be specific to the service area of the meal service site.

Examples of sources of aggregate data include:

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- Use the Census' American Community Survey at https://www.census.gov/programs-surveys/acs/ to obtain localized aggregate data on the population to be served.

- Use racial and ethnic data obtained from the National Center for Education Statistics Common Core of Data database at https://nces.ed.gov/ccd/schoolsearch/ to search the specific school on the population to be served.

- Use aggregate school enrollment data to obtain localized data on the population to be served for sites that are operated at the same school or at a site in the attendance area served by a school.

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

Yes. Non-enrolled sites operated by a school sponsor may use school enrollment data to obtain the racial or ethnic data for individual children.

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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/ad-3027.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;

(2)   fax: (833) 256-1665 or (202) 690-7442; or

(3)   email: program.intake@usda.gov.

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i https://squaremeals.org/Programs/Summer-Meal-Programs/Summer-2023-Non-Congregate-Feeding-Pilot-Program

ii https://squaremeals.org/Portals/8/files/SFSP/Non-Cong%20Pilot%202023/Non-Cong_Summer_2023_FAQ_230406.pdf?ver=YTbScRU87xwXXSSEiRVSVA%3d%3d

iii https://form.jotform.com/231936076644159

iv https://squaremeals.org/Programs/Summer-Meal-Programs/Administration-Forms

v https://app.smartsheet.com/b/form/ae240dcb34bd4dfda279f1589c6557cf

vi https://squaremeals.org/Programs/Summer-Meal-Programs/Administration-Forms

vii https://squaremeals.org/Portals/8/FND%20Forms/Program%20Forms/CACFP_SFSP_Racial-Ethinic_Data_Collection_Form_Prototype_220727.pdf

viii https://squaremeals.org/Programs/Summer-Meal-Programs/Administration-Forms