



NORTH DAKOTA DEPARTMENT OF  
**PUBLIC INSTRUCTION**

Administrative Manual

For

School Foodservice

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Department of Public Instruction

Kirsten Baesler, State Superintendent

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## PREFACE

The North Dakota Department of Public Instruction, under agreement with the United States Department of Agriculture, administers Child Nutrition and Food Distribution Programs in the state of North Dakota. The Department is a liaison between the Food and Nutrition Service, USDA and sponsors. Program services and benefits are delivered to recipients through this partnership of federal, state and sponsors.

The Department of Public Instruction provides leadership, information and training, and assistance to sponsors in fulfilling program requirements. The purpose of this manual is to assist administrators, authorized representatives, record keepers, foodservice personnel and others responsible for the administrative and financial aspects of the school nutrition programs.

## A. PROGRAM DETAIL

### A.1 School Nutrition History

The National School Lunch Act was signed by President Harry S. Truman in 1946.

The Act states: "It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of the nonprofit school lunch programs." National School Lunch Program (NSLP) operations began in North Dakota in school year 1946-47.

The 1950s - the decade of the 1950s was a time of major growth in school lunch program. There was discussion of a universal program, free and available to all children. However, funds were inadequate to keep even the existing program going. This decade brought serious challenges to the agricultural nature of the program. There was consideration of transferring the program to the United States Department of Education to present the program in more of an educational context.

The 1960s - The rapid increase in the number of schools entering the NSLP in the prior decade slowed, but growth in participation was steady. There was a national focus on the millions of children who still had no access to lunch at school. Some still went home for lunch, but this number was diminished because of the increasing number of mothers working outside of the home. The most significant problem was the lack of kitchens and cafeterias in schools, mostly in inner cities and rural areas. The 1960s brought significant new funding into child nutrition in the form of additional funding for needy children. The Child Nutrition Act of 1966 authorized the school breakfast program and child care feeding.

The 1970s - Following the White House Conference on Nutrition in 1969, there was a national focus on ending childhood hunger. The Secretary of Agriculture was authorized to set uniform national income poverty guidelines for free and reduced-price eligibility. The NSLP celebrated its silver anniversary in 1971. To honor the occasion, the United States Department of Agriculture (USDA) published a report: National School Lunch Program - 25 Years of Progress. The inflationary spiral of this decade jeopardized the economic survival of some local programs. Several innovations came into place, including offer vs. serve, satellite feeding, merchandising, and student involvement. Legislation provided funding for nutrition education and the training of foodservice personnel.

The 1980s - Meal prices were raised in many schools as a result of the budget cuts of the early 1980s. As a result, student participation dropped. However, several innovations came into place including a la carte, catering services, convenience foods, cafeteria renovations, and the increased use of computers. There was an increased emphasis in the area of fiscal accountability.

The 1990s - A major focus of this decade was on improving the nutritional integrity of school meals. School nutrition programs will continue to strengthen management practices in order to maintain a competitive edge. The focus was on customer service. Congress paid close attention to program expansion, and through several initiatives, worked to target benefits to the most needy children and families and to streamline program administration.

2000 and Beyond - The School Nutrition Programs, at the beginning of the new century, are facing unprecedented challenges. However, the challenges are accompanied by new opportunities. The release of the 2010 Dietary Guidelines for Americans, and the new MyPlate.gov, along with new emphasis on physical activity from the *Let's Move* campaign has guided many efforts. From a food service operations standpoint, the requests of sophisticated student customers will continue to guide menu offerings and cafeteria environment. The programs face a critical labor shortage. Financial constraints caused many programs to offer vended, brand name menu items and exclusive beverage contracts, thus compromising the nutritional integrity of the meals served. Reauthorization 2004 required wellness policies and HACCP plans. Reauthorization 2010 improved program access and program integrity.

#### A.2 Recent Legislative History

Omnibus Reconciliation Act of 1980 - Funding for child nutrition programs was cut by \$400 million by reducing poverty guidelines, reimbursement rates and levels of USDA food assistance.

Omnibus Reconciliation Act of 1981 - Funding for child nutrition programs was cut by \$1.4 billion with further reductions in reimbursement and USDA food assistance, restricting eligibility for the Special Milk Program, eliminating funding for equipment, and cutting funds for nutrition education and training. Funding cuts eventually reached \$3 billion, and 2,500 schools withdrew from participation in the NSLP.

The Commodity Distribution Reform Act of 1987 - This was a major piece of legislation that intended to improve both the manner in which commodities were distributed to recipient agencies, and the quality and form of USDA foods distributed.

The Child Nutrition and WIC Reauthorization Act of 1989 - This legislation established funds for School Breakfast Program start-up and snack reimbursement for children in afterschool care. It also stipulated that nutrition guidance for child nutrition programs be published, in recognition of the Dietary Guidelines for Americans. This legislation established the National Food Service Management Institute, for the purposes of conducting research, serving as a national clearinghouse for information related to child nutrition programs, providing training and technical assistance, and establishing a national network of trained professionals.

The Healthy Meals for Healthy Americans Act of 1994 - This legislation contained improvements, expansions and policy changes in several child nutrition programs. It permanently reauthorized the Nutrition Education and Training Program, and start-up and expansion funds for the School Breakfast and Summer Food Service Programs. It required schools to implement the Dietary Guidelines for Americans in school meals programs by the 1996-97 school year. It also required the USDA to provide increased technical assistance to schools and other sponsors with the goals of promoting the availability of child nutrition programs and enhancing the quality of meals served in the programs.

Healthy Meals for Children Act - This law went into effect in May 1996 and gives sponsors maximum flexibility in planning meals that conform to the Dietary Guidelines for Americans and minimum nutrient standards.

William F. Gooding Nutrition Reauthorization Act of 1998 – Provisions in this law affected the administration of the National School Lunch Program, School Breakfast Program, and the Special Milk Program and authorized the After School Snack Program. This legislation also defined food safety inspection, procurement, and program agreement requirements for local and state agencies. A Breakfast Pilot Project to evaluate the effect of providing free breakfast at school on student participation and achievement was also authorized.

Farm Security and Rural Investment Act of 2002 – This law amended the Richard B. Russell National School Lunch Act to authorize a Fruit and Vegetable Pilot Program in four states. This Act also included a provision to encourage institutions participating in the NSLP and SBP to purchase locally produced foods, to the maximum extent possible. Included in the act was the McGovern-Dole International Food for Education and Child Nutrition Program, which authorized the President to provide U. S. agricultural commodities and financial and technical assistance for (a) preschool and school food for education programs in foreign countries to improve food security, reduce hunger, and improve literacy and (b) for maternal, infant and child nutrition programs for pregnant women, nursing mothers, and infants and children.

Child Nutrition and WIC Reauthorization Act of 2004 – This law ensures improved program integrity, increased access and an enhanced emphasis on healthy eating.

Included in the bill are a number of items that will ultimately benefit the children served through the USDA Child Nutrition Programs:

- Enhances program integrity by targeting error-prone applications for verification
- Allowing verification data for any point in time from application through verification request
- Requiring direct certification
- Using annual school lunch applications
- Expands Lugar Summer Food Service Program pilots. The program was made permanent and six states are to be added.
- Waives weighted averages
- Requires local school district wellness policies as a means to address competitive foods in the school environment
- Requires schools to implement a Hazard Analysis Critical Control Point (HACCP) plan
- Removes cost accounting for severe need breakfast

The Food, Conservation, and Energy Act of 2008 (Farm Bill) - This law amended the Richard B. Russell National School Lunch Act by adding section 19, the Fresh Fruit and Vegetable Program. Section 19 permanently authorizes the program nationwide, and provides significant funding increases, beginning with \$40 million in FY 2009 and growing to \$150 million.

Healthy Hunger-Free Kids Act of 2010 – This law increased access and enhanced emphasis on healthy eating.

Included in the bill are a number of items that will ultimately benefit the children served through the USDA Child Nutrition Programs:

- Foster children are automatically eligible for free meals
- Water to drink with a meal must be accessible wherever school meals are served.

- Only 1% and skim milk can be served, flavored must be skim.
- Only the last four digits of the social security number are required.
- National nutrition standards were developed for competitive foods sold in schools throughout the school day.
- Adds a six cents performance-based reimbursement rate increase.
- Paid meal price must gradually increase to match free reimbursement.
- Added Provision 4, community eligibility.
- Added requirement to inform public on school nutrition environment.
- Added professional standards for school food service personnel.
- Expanded wellness policy requirements.
- Requires a study on meal charges and alternate meals.
- Requires a study of indirect costs.

### A.3 Federal, State and Local Roles

The responsibility for the administration and operation of the programs is vested in local, state, and federal agencies.

Sponsor - the authorized representative of the sponsor administers School nutrition programs. This individual ensures that the requirements of the program agreement and free and reduced-price policy statement are met, and that local program operations are effective.

State agency - The staff of the North Dakota Department of Public Instruction (NDDPI), Child Nutrition and Food Distribution Programs office performs various duties associated with program administration. These duties include interpreting and implementing federal regulations, developing policies, conducting training, providing technical assistance, and processing reimbursement claims. The State Agency also coordinates all aspects of USDA food distribution.

Federal agency - The Food and Nutrition Service (FNS) of the USDA is the oversight agency for the programs and is responsible for developing regulation and policy and ensuring state agency compliance with regulatory requirements.

### A.4 Legislative, and Statutory Authority

Congressional jurisdiction over the child nutrition programs rests in the Education and Labor Committee of the U.S. House of Representatives, and the Agriculture, Nutrition and Forestry Committee of the U.S. Senate. Reference to the programs is contained in the North Dakota Century School Code 15-54.

### A.5 Program Overview

Programs administered by the State Agency for schools, private schools and other institutions are the National School Lunch, School Breakfast, Special Milk, After School Snack, Child and Adult Care Food, Summer Food Service, Food Distribution Programs, Fresh Fruit and Vegetable Program and Team Nutrition.

#### A.5 (a) National School Lunch Program (NSLP)

Lunch at school is one of the building blocks toward a student's education. Studies have shown that students are more alert and attentive if they have adequate nourishment during the school day. The NSLP provides a low-cost meal for students and is intended to provide one-third of the Recommended Dietary Allowances. School meals must also be planned to meet the Dietary Guidelines for Americans and specified nutrient standards as well as the

established meal pattern. Federal reimbursement is provided for all complete meals served and is based on the student's eligibility status. Matching payments are also made from the state general fund. The program is funded locally by student payments and/or school contributions. The program is available to public and private non-profit schools, residential child care, and other eligible institutions.

#### A.5 (b) School Breakfast Program

The School Breakfast Program (SBP) was established to provide nutritious breakfasts to children who come to school hungry and experience difficulty with both physical and academic achievement. Sponsors choosing to participate in the breakfast program must provide free and reduced-price breakfasts to those who qualify. Sponsors must provide breakfasts that comply with the established meal pattern.

The program is available to public and private non-profit schools, residential child care, and other eligible institutions.

Severe Need Breakfast (SNB) - Sponsors which serve a large number of low-income children and operate a breakfast program qualify for additional reimbursement for breakfast. Eligible sponsors are those, which served 40% or more of lunches in the second preceding year to children eligible for free or reduced-price meal benefits. The additional reimbursement available is the maximum rate established by USDA.

#### A.5(c) After School Snack Program

The After School Snack Program (ASP) was authorized October 31, 1998 in the William F. Gooding Nutrition Reauthorization Act. Reimbursement is now available for snacks served by schools that participate in the NSLP. The after school snacks must meet reimbursement requirements and be served in conjunction with an after school education or enrichment program. Schools with 50% or more of their students eligible for free or reduced-price meals are eligible for At-Risk Reimbursement. At-Risk programs receive the free reimbursement rate for all snacks served.

#### A.5 (d) Special Milk Program

The Special Milk Program (SMP) was authorized by Congress in 1954 to increase children's consumption of fluid milk by providing low-cost milk at additional times during the school day. Sponsors participating in the SMP must pass on a substantial portion of the reimbursement to students as a reduced milk price. The total of the charge to the student plus the reimbursement rate must not exceed the average distributor cost of milk by more than 2½ cents.

The SMP is available to split-session pre-k or kindergarten students in schools that do not operate a breakfast or lunch program, or to students who do not have access to school meals. It is also available to pre-school programs which serve children with disabilities.

#### A.5 (e) Child and Adult Care Food Program

The Child and Adult Care Food Program (CACFP) is intended to improve the diets of children twelve years of age and younger. Children need well-balanced meals to meet their daily energy and nutritional needs. The meal patterns established for breakfast, lunch/supper and snacks provide this nourishment.

Licensed public or private non-profit child care or adult day care centers are eligible for the program, as are Head Start Programs. Also, licensed family or group child care homes may

participate under a sponsoring organization.

#### A.5 (f) Summer Food Service Program

The Summer Food Service Program (SFSP) is available to children 18 years and younger in low-income areas during times when school meals are not available. Sponsors must follow a meal pattern to receive meal and administrative reimbursement.

Agencies that serve a substantial number of low-income children are eligible to become program sponsors. Also, a school district may operate a SFSP for children who are part of a migrant education program.

#### A.5 (g) Food Distribution Program

The USDA provides foods through the Food Distribution Program (FDP). The purposes of the FDP are to improve the diets of those participating in the program, and to help strengthen the agricultural market for products produced by American farmers.

Sponsors participating in the NSLP receive USDA foods under two separate categories - entitlement and bonus. Entitlement foods are those, which the sponsor is "entitled", by law, to receive. USDA is required to provide a minimum level of USDA foods to each state agency for use in the NSLP. The state agency, in turn, is required to offer each sponsor the average per-meal value of donated foods and the full range of USDA foods available, depending on local preference. The value of these USDA foods is based upon the "Price Index for Food Used in Schools and Institutions" and is updated annually. Entitlement is derived by taking the National Average Value of Donated Foods times the number of meals served. Bonus USDA foods are those received over and above entitlement.

#### A.5 (h) Team Nutrition (TN)

Regulatory changes in 1995 created a requirement that school meals comply with the recommendations of the Dietary Guidelines for Americans and that they meet minimum standards for key nutrients and calories. To help meet the goal of healthier children, USDA launched Team Nutrition, an initiative designed to help make implementation of the new regulations in schools easier and more successful.

Team Nutrition aims to improve children's lifelong eating and physical activity habits. North Dakota's Team Nutrition goals focus on building a healthy school nutrition environment. Team Nutrition provides local and State agencies with innovative educational and technical resources that actively involve children and their parents in nutrition education programs at home and in school. Team Nutrition also supplies school food service professionals with state-of-the-art tools and techniques to help them prepare nutritious, appealing meals.

#### A.5 (i) Fresh Fruit and Vegetable Program (FFVP)

The FFVP provides free fresh fruits and vegetables to students in participating elementary schools during the school day. The FFVP started in 2004 in pilot schools and was expanded to include all elementary schools in 2008 under section 19 of the Richard B. Russell National School Lunch Act. The program is geared toward elementary schools with the highest proportion of free and reduced lunch enrollment, especially those at 50% or higher. Total enrollment of all schools selected in the state must result in a per-student allocation of \$50 to \$75. The goal of the FFVP is to improve children's overall diet and create healthier eating habits to impact their present and future health. The FFVP will help schools create healthier school environments by providing healthier food choices, expanding the variety of fruits and vegetables children experience, and increasing children's fruit and vegetable consumption.

Applications to participate in the program must be completed yearly.

#### A.6 Regulatory Citations

Code of Federal Regulations (CFR) and Catalog of Federal Domestic Assistance (CFDA) numbers follow:

PROGRAM	CFR	CFDA
National School Lunch Program .....	210 .....	10.555
School Breakfast Program .....	220 .....	10.553
Special Milk Program .....	215 .....	10.556
Child and Adult Care Food Program .....	226 .....	10.558
Summer Food Service Program.....	225 .....	10.559
Food Distribution Program .....	250 .....	10.567
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## SURVIVAL GUIDE

This section is intended to provide focused information on issues related to the administration of School Nutrition Programs. The information may be useful for new authorized representatives and record keepers and is organized into the following sections:

- 1) General Information
- 2) Getting Started/Agreements
- 3) Understanding Basic Foodservice Requirements
- 4) Free and Reduced-Price Meal Eligibility and Verification
- 5) Claiming Reimbursement/State Matching Funds
- 6) Ordering USDA Foods
- 7) Other Reporting and Recordkeeping
- 8) Training and Professional Development

Additional information regarding these topics is provided in the *Administrative Manual for School Foodservice*, which is referenced frequently throughout this Guide.

### General Information

The United State Department of Agriculture (USDA), Food and Nutrition Service, is the federal agency which has oversight and administrative responsibility for child nutrition and food distribution programs funded by the federal government. The North Dakota Department of Public Instruction, Child Nutrition and Food Distribution Programs (State Agency), is the authorized agency responsible for the statewide administration of the programs. The State Agency has a direct relationship with the USDA Mountain Plains Regional Office in Denver, CO, and ultimately the USDA Headquarters offices in Washington, D.C. Currently, nine (9) separate USDA programs, plus additional grants and initiatives are administered by the State Agency. The Child Nutrition and Food Distribution web site provides additional program information: <https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/>

The State Agency is responsible for employing adequate staff to oversee and administer the programs. The State Agency has developed a strategic plan, which is under continual review and revision.

The State Agency prepares a biennial budget for both administrative and grant funds. Administrative funds are those which are required for state level operations. Grant funds are those which flow through to sponsors. The budget is included in the overall budget of the North Dakota Department of Public Instruction and approved by the State Legislature.

The State Agency manages the USDA programs on the North Dakota Foods (NDFoods) system, an Internet based application. With the NDFoods system, most program business functions are performed over the Internet. Local nutrition programs complete and update their annual application and monthly claims for reimbursement over the NDFoods system.

Sponsors must adhere to the General Requirements for Federal Programs (NDDPI, February 2004), which is referenced throughout the manual.

## Getting Started/Agreements

It is recommended that sponsors create a set of files for each school year. The files can be organized in the following categories:

- 1) Agreements, Free and Reduced-Price Policy Statement and Attachments
- 2) Applications for free and reduced-price meals, master list of eligible students
- 3) Communication from state agency
- 4) Invoices, receipts, billings, and ledger
- 5) Meal count data to support claims filed. If claim is not filed on NDFoods system, keep a copy of claim forms filed.

Locate the Program Agreement (SFN 5908), Free and Reduced-Price Policy Statement (SFN 9184/9185) and Attachments. These documents, along with the Sponsor and Site applications, which are located on the NDFoods system, constitute your agreement with the State Agency.

The Program Agreement is permanent and must be pulled forward to the current year. This agreement covers all school nutrition and USDA food programs. It is a legally binding agreement. Review the terms carefully.

The Sponsor and Site applications reflect current year operations of the program and are updated annually in the summer. Several data fields on the Sponsor and Site applications are tied to various edit checks on the Claim for Reimbursement. It is important to update the Sponsor and Site applications on the NDFoods system whenever program and persons handling the program change occur.

The Free and Reduced-Price Policy Statement outlines the requirements for approval and verification of income eligibility applications and is considered permanent until changes are initiated at the state or local level. The elements to the policy statement are 1) the name of the individual designated to make eligibility determinations, 2) the name of the hearing official, 3) an assurance that the sponsor will abide by established hearing procedures and nondiscrimination practices, 4) the procedures to accept applications for free and reduced-price benefits.

## Understanding Basic Foodservice Requirements

The USDA regulations outline the requirements for the National School Lunch Program meal pattern and the School Breakfast Program meal pattern. Section B.2(b) of the Administrative Manual provides additional direction for menu planning. Menus must meet the Dietary Guidelines for Americans (DGAs) and various menu and food production records must be maintained for all meals claimed for reimbursement.

The regulations require that students and parents be involved in the foodservice program. The sponsor may involve these individuals in an advisory committee, taste-testing panel, or other group.

The foodservice department must adhere to state and local health and food safety requirements.

These requirements are outlined in the manual, North Dakota Requirements for Food Establishments.

The lead worker of each sponsor food preparation/service site must undergo initial and continuing training regarding the safe handling, preparation, and service of food. This comprehensive 8-hour course is important to all foodservice employees. The 8-hour, ND DPI Sanitation and Safety Course meets this training requirement. Contact the State Agency for a list of other approved Sanitation courses. See Section E.3 (a) of the manual for more information on foodservice training opportunities.

#### Free and Reduced-Price Eligibility and Verification

Establishing free and reduced-price meal eligibility and completing verification are two of the most important financial/record keeping functions in the foodservice program. This information is a deciding factor in the amount of federal reimbursement received by a sponsor. Chapter D of the manual provides the necessary details. Sponsors must ensure that there is documentation of direct certification or an application on file for meals served to students claimed in the free or reduced-price categories. This is an area closely reviewed by state agency staff members under federal monitoring guidelines.

The State Agency strives to keep paperwork to a minimum. Methods to streamline and reduce local reporting burden are continually explored. Most program forms are available on the DPI web-site as PDF files.

#### Claiming Reimbursement/ State Matching Funds

Claims for reimbursement are filed over the NDFoods system. A separate claim is filed for each site.

Sponsors are strongly encouraged to submit their claims for reimbursement over the NDFoods system by the 10th of the month following the claim month to expedite payment. The sponsor may adjust claims, if necessary. However, certain guidelines and restrictions apply. See Section C.7 of the manual.

There are a series of automated edit checks built into the claim. Many of these edits are tied to information on the Sponsor and Site applications. For this reason, it is very important to maintain accurate, updated information about local program operations on the NDFoods system.

The State Agency is required to provide matching payments to sponsors participating in the NSLP. The matching formula is defined in the regulations. The State Agency uses the state match to pay all USDA Foods warehousing and transportation fees sponsors incur each month. The balance of the state match due to the sponsor is paid out in June. The payment is based on the sponsor's prorated share of the state appropriation, based on participation in the NSLP. The State Agency may, when necessary, use other state revenues appropriated or used specifically for program purposes to meet the matching requirement.

#### Ordering USDA Foods

USDA donated foods (commodities) are offered to sponsors through a monthly food survey process. Sponsor entitlement is based on its Planned Assistance Level (PAL). Entitlement is determined by the sponsor's total number of meals served at lunch the previous school year. ~~average daily participation in October.~~ Processed USDA foods are also available on the food surveys with processing charges due to NDDPI. See Section B.2(c) for further information. Instructions for completing USDA food processes in NDFoods are available on the Child Nutrition web site.

<https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/>

USDA foods are shipped to the state by the USDA and stored at a central warehouse. The State Agency enters contracts for state level warehousing and transportation services to sponsors. These contracts are entered on behalf of sponsors, and all efforts are made to provide the best, most cost-effective service.

#### Other Reporting and Recordkeeping

The State Agency routinely requests additional reports and information from sponsors.

The State Agency conducts occasional surveys to receive input on policy matters, training programs, and other issues. Sponsors are encouraged to provide input.

The Healthy, Hunger-Free Kids Act of 2010 included a provision requiring sponsors to comply with requests for information or data for research conducted by USDA.

All program records must be retained for three fiscal years, plus the current year unless there are outstanding audit or review issues. In this case, the records must be retained until the issues are resolved.

#### Training and Professional Development

The training and professional development of school foodservice and administrative personnel is a major function of the State Agency. Considerable resources are dedicated to training.

The State Agency offers continual training opportunities. Notices of upcoming training are e-mailed routinely. The State Agency also publishes articles on issues of timely importance or current trends in administration or kitchen management of the school meals programs. An email reminder will be sent to authorized representatives and lead food service workers to highlight the newsfeed. Sponsors are encouraged to utilize these newsletters and make them readily available to staff members involved in the program.

A website is available to provide interactive online relationships with customers and stakeholders. The Child Nutrition office website, <https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/> provides valuable program information to all customers.

## B. PROGRAM MANAGEMENT

### B.1 Program Application and Approval

#### B.1 (a) Eligible Agencies

Agencies eligible for participation in school nutrition programs include:

- 1) educational units of high school grade or under, recognized as part of the educational system in the state,
- 2) public or nonprofit private classes of preprimary grade conducted in these agencies,
- 3) public or nonprofit private residential institutions which operate principally for the care of children, and if private, are licensed to provide residential child care services,
- 4) Other agencies eligible are homes for the mentally, emotionally or physically impaired, and unmarried mothers and their infants, group homes, halfway houses, orphanages, temporary shelters, long-term care facilities for chronically ill children, and juvenile detention centers.

#### B.1 (b) Eligible Individuals

Eligible individuals are a) students of high school grade or under as determined by the State educational agency, enrolled in an educational unit of high school grade or under, including students who are mentally or physically disabled as defined by the state and who are participating in a school program established for the mentally or physically disabled; or b) persons under 21 chronological years of age who are enrolled in a public or nonprofit private residential child care institution which operates principally for the care of children.

#### B.1(c) How to Apply

Sponsors may request application forms from the State Agency. The complete application consists of the Program Agreement, Sponsor and Site Applications, Free/Reduced-Price Policy Statement and Attachments, and a Preadward Compliance Statement. Private, nonprofit institutions must also submit a document of nonprofit status and current licensing.

The sponsor will assign individuals to serve as Authorized Representative, Recordkeeper and Authorized Financial Representative. The Authorized Representative is the individual responsible for local program operations. A lead foodservice worker is designated for each site. Contact information for these individuals is collected during the Sponsor and Site application process.

#### B.1 (d) Complete Agreement

Sponsors must maintain a current agreement file for each fiscal (school) year. This file, at a minimum, will contain the Program Agreement and the Free/Reduced-Price Policy Statement and Attachments.

#### B.1 (e) Sponsor and Site Application Procedures

The State Agency initiates the annual Sponsor and Site application process. The Sponsor and Site applications reflect current year operations of the program and are updated annually in the summer. Several data fields on the Sponsor and Site applications are tied to various edit checks on the Claim for Reimbursement. It is important to update the Sponsor and Site applications on the NDFoods system whenever program changes occur.

The Program Agreement (SFN 5908) is brought forward from the past year, unless a new or updated agreement is to be completed. A change in sponsor administration does not require a new agreement.

The Free/Reduced-Price Policy Statement (SFN 9184/SFN 9185) is pulled forward to the current year's file, unless a new or updated statement is completed. A change in sponsor determining and/or hearing official does not require a new policy statement. Changes to policy statement attachments can be made during the Sponsor and Site application renewal process. The most common change is to the Meal Counting/Claim Preparation Form (SFN 9188/SFN 9189).

## B.2 Policies

The following policies apply to three general areas of program management: Fiscal/Administrative, Foodservice, and USDA Foods. References to the document General Requirements for Federal Programs (NDDPI, February 2004) are noted.

### B.2 (a) Fiscal/Administrative Policies

#### Waivers

The Healthy Meals for Healthy Americans Act of 1994 gives USDA the authority to waive certain statutory and regulatory provisions which govern the programs. A waiver may be requested by a state agency, or by the state agency on behalf of a sponsor. The USDA is not permitted to waive any current requirement related to 1) the nutritional content of meals, 2) individual entitlement to free and reduced-price meals, 3) the maximum amount charged for a reduced-price meal, 4) federal reimbursement rates, 5) the distribution of program funds, 6) the equitable participation of private schools and children enrolled, 7) maintenance of effort requirements, 8) the disclosure of information relating to students receiving free or reduced-price meals and other recipients of benefits, 9) the USDA food distribution program, 10) the maintenance of non-profit foodservice operation, 11) the sale of competitive foods, and 12) enforcement of any individual rights.

#### Meal Counting Procedures

Meal counting procedures refer to the methods by which sponsors obtain the data to be reported on the claim for reimbursement. An adequate meal counting system will have the following characteristics:

- Meal counts are taken at the "point-of-service" which is that point where a determination can accurately be made that a reimbursable free, reduced-price or paid lunch or breakfast has been served to an eligible child. The "point of service" is usually located at the end of the meal service line.
- Meal counts are taken during each meal service.
- Meal counts must be taken in a manner that prevents the overt identification of students eligible for free or reduced-price meals.
- Meal counts yield an accurate daily count of the number of free, reduced-price and paid lunches/breakfasts served.

#### Non-allowable Meal Counting Procedures

- Counts taken in the classroom
- Counts based on attendance
- Counts from the number of tickets sold/issued
- Head counts
- Tray counts
- Paid meal counts obtained by "backing out" the numbers of free and reduced-price meals from the total number of meals

## Automated Meal Counting Systems

When an automated system is used as a meal counting system, the sponsor must have a manual counting system that could be used if a mechanical failure of the automated equipment occurs. Any printed material generated by the computerized system that is not stored electronically must be maintained on file.

## Claims for Reimbursement

Claims for reimbursement are filed over the NDFoods system. A separate claim is filed for each site.

Sponsors are strongly encouraged to submit their claims for reimbursement over the NDFoods system by the 10th of the month following the claim month to expedite payment. The sponsor may adjust claims, if necessary. However, certain guidelines and restrictions apply. See Section C.7 of the manual.

## Claims Review (Edit Check)

Sponsors are required by regulation to conduct a claims review process on claim information prior to submission of the monthly claim for reimbursement. Claims review includes comparing the number of free and reduced-price and paid eligible students served to the number participating in each category, and to the number of eligible students adjusted for attendance. These reviews are conducted on daily information for each site. Data used for this review and all documentation for the claim is to be maintained on file at the sponsor and available for review. A form for this process is located on the Child Nutrition web site.

<https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/SchoolNutritionPrograms/FormsTools/>

## Sponsor Self-Review

Every program year, sponsors with more than one foodservice site must perform at least one on-site review of each site under its jurisdiction. The on-site review must take place prior to February 1. The review is to ensure that the claim is based on the approved counting system and that the system, as implemented, yields the actual number of reimbursable free, reduced-price and paid meals served for each day of operation. A prototype on-site monitoring form is located on the Child Nutrition web site.

If a review disclosed problems with the meal counting or claiming procedures, the sponsor shall ensure that the site develops and implements a corrective action plan; and within 45 calendar days of the review, conduct an on-site follow-up review to determine that the corrective action has been completed and the problem resolved.

## Adult Meals

There is no reimbursement or USDA Foods provided for meals served to adults. Reimbursement funds and student payments may not be used to subsidize lunches for adults who do not have specific duties directly related to the operation and administration of the foodservice program.

The following guidelines to pricing adult meals are provided:

- Meals served to foodservice employees may be provided at no cost.
- Meals served to adults whose primary job is to administer or manage the foodservice may be provided at no cost.
- The cost of meals served at no charge to teachers or others who supervise students during

meal service may be paid by the general fund. As an alternative, the cost of these meals may be considered "paid" by the in-kind contributions made by the sponsor to the foodservice program. The in-kind contributions are generally administrative expenses, the cost of facilities and maintenance, and utilities. The process for paying for adult meals with in-kind contributions must be documented by the sponsor.

- The cost of all other adult meals is not attributable to the program, and the individuals must be charged the full cost of the meal or these meals must be supported by a payment from the general fund.
- The minimum adult lunch charge, including lunches served to teachers and other adults without direct program responsibilities, is to be set above the highest student charge by the current amount of paid meal reimbursement rate, plus the current USDA food value per meal.
- For no charge schools (CEP and Provision 2) the adult charge must be at least the current free reimbursement rate plus the per meal value of USDA foods.

Adults are to be served the same menu and portions as students.

#### Supervision During the Serving Period

It is an administrative determination as to who is responsible for lunchroom supervision. Lunchroom supervision is an allowable foodservice account expenditure. Playground supervision is not an allowable school foodservice expenditure.

#### Pricing Student Meals

Sponsors may operate as a charge or no-charge program. Charge programs establish and collect student payments. No-charge programs do not collect payments from students.

The Healthy, Hunger-Free Kids Act of 2010 requires sponsors to gradually increase paid lunch prices until they are equal to the free reimbursement minus the paid reimbursement. The maximum required increase is 10 cents per year, however, schools can increase more than 10 cents if they desire. Any amount over the required increase can be carried forward to use against the required increase in subsequent years.

The maximum reduced-price meal charges are established by regulation and are currently \$.40 for lunch, and \$.15 for snack. Sponsors may charge less than these amounts or waive the reduced fee. The 2015 North Dakota Legislature included money in the ND Department of Public Instruction budget to pay the \$.30 cents for families eligible for reduced-price breakfast. Please set your lunch counting system to zero for the reduced breakfast charge.

#### Reimbursement for Students Not Enrolled

When a foodservice program serves students of another school who participate in meal service because of an educational or extra-curricular event, the host school may claim reimbursement for the meals served to these students. Visiting students receiving meals that meet reimbursement requirements are to be claimed in the paid meal category.

To claim reimbursement for these students, add the number of student meals served to the total of paid meals served on the monthly claim for the site at which the meals were served. Maintain documentation with the meal count information for the site and month in which the event occurred stating the actual count of extra students, the event and the date of the event.

#### Home Based School Children

Home-based students who participate at the public school in an activity which is considered an

integral part of the school curriculum, the timing of which necessitates their being in the public school during meal service periods, must be offered a breakfast or lunch. The household may apply for free or reduced-price benefits. Curricular activities must be conducted immediately prior to and/or immediately following the meal service period. The school is not required to provide meals to partial-day students who are not scheduled to be in the school during meal service times. The school may, however, choose to provide meals to these students.

### Student Helpers

Students cannot be required to work for their meals. Meals served without charge to students who work in the foodservice program are to be claimed in the appropriate reimbursement category for the individual student.

If the school is paying a student worker for work done and issues a check to the student, it can be construed that an employee/employer relationship exists. The minimum wage must be paid and adequate payroll records must be maintained. For information regarding student helpers, contact the State Labor Department.

### Handling Lost, Stolen and Misused Meal Tickets

Tickets refer to daily, weekly or monthly paper tickets, cards, coins or tokens. USDA policy outlines minimum policy requirements in replacing lost, stolen and misused tickets. It is recommended that the policy and procedures established by the sponsor for issuing ticket replacements to students eligible for free and reduced-price meals be extended to the loss of full-price tickets. If a uniform policy is not implemented, sponsors must exercise care to prevent the overt identification of students eligible for free or reduced-price meals when reissuing meal tickets. Any system which limits the number of tickets reissued to a student must conform to these USDA guidelines:

- Households must be advised in writing of the sponsor policy regarding missing meal tickets and of the student's responsibility for tickets issued.
- A minimum of three ticket replacements or special meal arrangements resulting from three lost, stolen or misused tickets must be allowed for each student within each school year, regardless of the replacement cost of the ticket.
- The sponsor must maintain a list of students who have reported missing tickets in the current school year and the number of occurrences for each student. Prior to denying a meal to any student without a ticket, the list should be reviewed to determine if the student has already had three ticket replacements.
- At least one advance written notice must be given to the household prior to refusal to allow additional meals or ticket replacements.
- Meals must always be provided to preprimary and young primary students or for any disabled student who may be unable to take full responsibility for a meal ticket.

### Free or Reduced-Price Meals

All sponsors participating in the NSLP, SBP or ASP must serve meals or snacks free or at a reduced price, or free milk through the SMP to any student who is a member of a household which has an annual income not above the applicable household size and income level established by the USDA and which has submitted an application for free or reduced-price benefits, or is categorically eligible for benefits.

Categorically eligible students are those who receive benefits under the Special Nutrition Assistance Program (SNAP), formerly known as Food Stamps, and Temporary Assistance to

Needy Families (TANF) Programs or is a foster child. Each sponsor will need to access the NDDPI STARS system to view a list of students electronically matched from the sponsor's STARS enrollment and the SNAP database. Students on this Direct Certification list are categorically eligible for free meals. All students in a SNAP household are automatically eligible for free meals. Students not included in the STARS direct certification notification can be written in on the bottom of the printed list with an indication of which household they reside with.

Students who receive benefits under the Food Distribution Program on Indian Reservations (FDPIR) are also categorically eligible.

#### Special Assistance Certification and Reimbursement Alternatives

There are four options available to sponsors under special assistance alternatives:

Provision I: In sponsors where at least 80% of the students enrolled are eligible for free or reduced-price meals, annual certification of students eligible for free meals may be reduced to a minimum of once every two consecutive school years.

Provision II: In sponsors where all students are served meals at no charge regardless of eligibility, annual certification of students eligible for free or reduced-price meals may be reduced to a minimum of once every four consecutive school years. Reimbursement will equal the base year (adjusted for inflation and enrollment). Program costs in excess of reimbursement income must be met by the sponsor from non-federal sources. NDDPI can approve a four-year extension if the economic condition of the population served has not changed since the base year.

Provision III: In sponsors that serve meals at no charge to all students for four (4) successive years including the "base year", reimbursement will equal the base year (adjusted for inflation and enrollment). Program costs in excess of reimbursement income must be met by the sponsor from non-federal sources. NDDPI can approve a four-year extension if the economic condition of the population served has not changed since the base year.

Community Eligibility Option: Schools serving high numbers of low-income children will be able to participate in the Community Eligibility option for reimbursement of meals served through the USDA National School Lunch and School Breakfast programs. Community Eligibility allows schools with 40 percent or more students who are certified for free meals without a paper application based on their status as in foster care, Head Start, homeless, migrant, or living in households that receive SNAP/Food Stamps, TANF cash assistance or FDPIR benefits to serve free breakfast and lunch to all students without collecting school meal applications.

More information on these provisions and the Community Eligibility option is available from the State Agency.

#### Unpaid Meal Accounts

If students eligible for reduced-price or regular price meals have not paid for meals, the foodservice program has the option of denying future meal service. As of July 1, 2017, all SFAs operating NSLP and/or SBP must have in place a written policy to address situations where children participating at the reduced price or paid rate do not have money to cover the cost of a meal at the time of the meal service. The policy must be clearly communicated to families and all school or district-level staff members responsible for policy enforcement. In the policy, notice should be given stating that if outstanding meal charges have not been paid

within a specified number of days, meals will no longer be provided.

The sponsor must provide a meal to any student paying for the meal that day, regardless of the balance of unpaid meal charges. The sponsor may choose to provide an alternate meal to students who do not have funds to pay for the planned meal. This meal may not be claimed for reimbursement unless it meets meal pattern requirements.

#### Multiple Sponsors

Multiple sponsors can be allowed to participate under one agreement. The authorized representative of the sponsor signing the agreement would assume full liability and financial responsibility for the operation of all foodservice programs under the agreement.

#### Use of School Foodservice Funds

Income accruing to the foodservice program in any sponsor shall be used only for program purposes; however, such income shall not be used to purchase land or to acquire or construct buildings. School foodservice funds may be used to make capital improvements to foodservice facilities upon approval of the State Agency. Funds may be placed into contingency accounts for use in future major purchases or capital improvements.

#### Contracts Between Sponsors for Meals

Sponsors may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the sponsor, provided that the agency initiating the contract first demonstrates that there are no private entities able and willing to enter into such a contract.

Sponsors may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the sponsor.

The minimum per-meal charge to the program receiving meals from a sponsor participating in the NSLP should be the per-meal cost, plus the total of the 1) per meal rate of USDA donated food assistance and the 2) basic reimbursement that is received for all lunches. Assistance in contracting may be provided by the State Agency. A signed copy of the approved contract must be filed with the State Agency.

#### Retention of Records

The sponsor must maintain, for each site, full and accurate records of all program operations. All accounts and records must be kept for a period of not less than three years after the end of the fiscal year to which they pertain, unless there are unresolved audit or review findings. In this case, the records must be retained until resolution occurs. All records must be available for audit or review at any time by the State Agency, state or independent auditors, or the USDA.

Records to be retained include free and reduced-price meal applications, agreements, claims, meal counts which support the claim, menus and production information, USDA food customer orders and civil rights information. Records such as Sponsor and Site applications and claims for reimbursement may be maintained electronically on the NDFoods system.

Sponsors that have implemented a Special Provision as outlined on page 24 must maintain records from the base year for the duration of time that the sponsor claims meals based on base year information plus three years after the end of the fiscal year to which they pertain.

## Civil Rights Requirements

(Reference *General Requirements for Federal Programs*, Page 1).

No person shall, on grounds of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity be excluded from participation in or subjected to discrimination in any program or activity funded, in whole or in part, by federal funds.

Each year sponsors must collect information on the racial/ethnic makeup of all students applying for free or reduced-price meals. This information must be maintained on the Collection of Racial/Ethnic Data form and kept on file for a period of three full fiscal years plus the current year. Identification of racial/ethnic makeup may be accomplished by a sponsor official through observation, personal knowledge, or through voluntary self-identification by the applicant on the income application. Collected data will be reviewed by the State Agency during regularly scheduled reviews.

Local compliance with public notification requirements is monitored on a regular basis. Public notification requirements include:

- The display of an FNS approved non-discrimination “Justice for All” poster in a prominent place at each site participating in a USDA Child Nutrition Program.
- The availability of program information in the appropriate translations as needed.
- Procedures for providing program information to the public upon request.
- Procedures for providing the non-discrimination statement and procedures for filing a complaint in any information concerning the program or program activities to parents or guardians of beneficiaries or potential beneficiaries.
- An annual public release of the organization’s nondiscrimination policy.

USDA’s nondiscrimination clause for Child Nutrition Programs is:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: <https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

### Local Wellness Policy (LWP)

The Child Nutrition and reauthorization Act of 2004 (Public Law 108-265) required schools participating in the NSLP to develop and implement a Local Wellness Policy, (LWP). Requirements include: setting goals for nutrition education, physical activity and other school-based activities, setting nutrition guidelines for all foods available on school campus, meeting nutrition standards for school meals, and a plan for measuring implementation of the local wellness policy. The policy must be developed by a team consisting of at least one person from each of these stakeholder groups: parents, students, school foodservice personnel, school board members, school administrators and the public.

The Healthy, Hunger-Free Kids Act added more requirements to LWP development, promotion and implementation. The Act added the requirement that LWPs include goals for nutrition promotion. Schools are now required to permit physical education teachers and school health professionals to participate in the development of wellness policies. The Act also expanded the purpose of the team to include implementation of the LWP with periodic review and updates. The local agency must designate one or more local officials to ensure that each school complies with the LWP.

The HHFK Act added a requirement to inform and update the public (including parents, students and the community) about the content and implementation of the LWP. Schools are also required to measure triennially and make available to the public an assessment of the LWP which includes:

1. The extent to which schools are in compliance with the LWP.
2. The extent to which the LWP compares to model LWPs; and
3. The progress made in attaining the goals of the LWP.

LWP resources are available at USDA's Team Nutrition web site:  
<http://www.fns.usda.gov/tn/healthy/wellnesspolicy.html>

## B.2 (b) Foodservice Policies

### Menu Planning

The regulations require that all lunches and breakfasts served under the NSLP and SBP meet the 2010 Dietary Guidelines for Americans. The New Meal Pattern went into effect on July 1, 2012. Meals must meet certain calorie, fat and sodium levels and offer specific vegetable subgroups over the course of a week. The Lunch and Breakfast Meal Patterns can be found at <https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/SchoolNutritionPrograms/MealPatterns/>

Water must be available wherever meals are served. Water must be available to enjoy with the meal.

### Denying Meals as a Disciplinary Action

The denial of paid, free, or reduced-price meals or snacks and free or paid milk as a disciplinary action is prohibited. A student may be disallowed from eating in the school foodservice facility, and/or a different meal may be offered, but a reimbursable meal, snack under the ASP snack program or milk under the SMP must still be made available.

## Forcing Students to Eat is Not Allowed

It can be very frustrating for some adults to see students throwing food away especially if you have the mindset that children need to belong to the clean plate club. Forcing children to eat can make them feel their own physical instincts aren't important and keep them from listening to their bodies. If allowed to follow their own instincts, children will stop eating when they are full. Forcing children to clean their plates has no place in the school breakfast and lunch programs. Food is not allowed to be used as a reward or disciplinary action and is prohibited.

## Parent and Student Involvement

Regulations require sponsors to develop plans/programs to involve parents and students. Student involvement will likely result in better acceptance of foods, higher participation, and increased awareness of the link between nutrition and learning.

The Local Wellness Policy rules require parent involvement in developing the policy.

The HHFK Act added a public information piece requiring schools to inform parents of the nutritional quality of the menus and provide any review or food inspection report if requested.

## Use of School Food Service for Other Purposes

Permission for outside school or community groups to use school foodservice facilities should be obtained from the school administration. The local administration should have a written policy governing the use of the facilities. When the school foodservice facility is used by school or community groups for food service, the State Agency recommends that the school have a school foodservice worker on duty in order to ensure proper use and care of equipment and facilities.

Precaution must be taken that no supplies purchased with school foodservice funds be used by groups utilizing the foodservice facility.

## Food Safety Inspections

The Child Nutrition Reauthorization Act of 2004 (Public Law 108-265) requires schools participating in the NSLP or the SBP to obtain food safety inspections conducted by a State or local governmental agency responsible for such inspections at least twice a year if a local governmental agency does not otherwise require additional inspections. If a State or local governmental agency responsible for food safety inspections conducts voluntary inspections in schools, these inspections may be counted toward meeting this requirement. The most current inspection report must be posted where students can view it.

## HACCP Plan

The Child Nutrition Reauthorization Act of 2004 (Public Law 108-265) requires schools participating in the NSLP to develop and implement a HACCP Food Safety Plan based on the Process Approach to HACCP Principles. HACCP stands for Hazard Analysis Critical Control Points. Guidance for School Food Authorities: Developing a School Food Safety Program based on the Process Approach to HACCP Principles by USDA Food and Nutrition Service was initially mailed out to all school food authorities. For additional copies, you may download the materials from:

<http://www.fns.usda.gov/cnd/Guidance/>

A white, 3-ring binder titled *HACCP-FOOD SAFETY PLAN-MANUAL* was also provided for each kitchen.

Further guidance was issued in memorandum SP 37-2013 “Enhancing the School Food Safety Program”. This memo expands the food safety requirements to all Child Nutrition programs, not just NSLP. <https://fns-prod.azureedge.net/sites/default/files/cn/SP37-2013os.pdf>

#### Food Service Management Companies

Food Service Management Companies (FSMC) may provide meal service to sponsors by meeting certain requirements. Proper procurement practices must be followed and there must be a contract between the sponsor and the FSMC. Sponsors who are considering a contractual arrangement with a FSMC must contact the State Agency for information. All contracts must be reviewed and approved by the State Agency.

#### Procedures for School Closing

When a sponsor closes, the following procedures should be followed:

- All USDA Foods should be transferred to the sponsor where the majority of the students will be attending.
- Funds that remain in the school foodservice account after the program ends may be absorbed into the school's general fund.
- Equipment must be disposed of in accordance with Property Management Standards outlined in *General Requirements for Federal Programs*, Page 14-15.

#### Food Service Personnel Training

The lead worker of each sponsor food preparation/service site must undergo initial and continuing training regarding the safe handling, preparation, and service of food. The Superintendent of Public Instruction shall by rule prescribe the nature, scope, and frequency of the training. Certain agencies, because of the nature of meal service provided or the education/training background of the lead worker, may be exempt from this requirement. In such case, a waiver must be submitted by the sponsor and approved by the Department.

#### Special Dietary Needs

Sponsors shall provide special meals, at no extra charge, to students whose disability restricts their diet. There are no exceptions to this requirement.

Sponsors shall require students to provide certification from a licensed physician detailing the alternate diet, and that special meals are needed because of the disability. A medical statement, signed by a licensed physician, must be on file. The statement must include: 1) the child's disability and an explanation of why the disability restricts the child's diet; 2) the major life activity affected by the disability; and 3) the food(s) to be omitted from the diet and the food(s) that must be substituted. Meal service shall be provided in the most integrated setting appropriate to the needs of the disabled child.

Generally, persons with allergies, food intolerance and those who are obese are not considered disabled, unless their condition substantially limits one or more major life activity. Sponsors may also make substitutions for non-disabled children who are unable to consume the regular meal because of medical or other special dietary needs.

For further information regarding special dietary needs, the USDA manual, <http://www.nsba.org/sites/default/files/reports/Safe-at-School-and-Ready-to-Learn.pdf>, is available from the State Agency.

### Special Requests for Meal Substitutions

Special requests for meal substitutions related to ethnic or religious preferences may be granted at the sponsor's discretion. If substitutions are made, the substitution must be within the same food component. In order to claim meals for reimbursement, the required portion sizes of the minimum number of food components must be taken by the student.

### Meals Consumed Off-Site

Meals reimbursed under the program are to be served and consumed as part of the school or institutional program, on school or institution premises. Meals given to students to take home are not reimbursable.

However, meals such as those taken on field trips or provided to students in a work/study situation may be claimed for reimbursement if they meet the meal pattern requirements and are served and consumed as part of a school/institution function. These functions must be part of the curriculum and not extracurricular events.

Meals served off-site should be subject to especially stringent sanitary measures to avoid contamination. In all situations of off-site meal consumption, care must be taken to ensure that accurate meal count records are maintained of free, reduced-price and paid meals and overt identification is avoided.

### Ala Carte System

An ala carte foodservice system is one in which individually priced food items are made available to participants. All income derived from ala carte sales must be deposited in the foodservice account. Local agencies must keep track of the cost of ala carte items to ensure that the percentage of food cost for these items is less than or equal to the percentage of revenue the items produce. Items must meet the USDA Smart Snack standards under Competitive Foods.

### Non-reimbursable Ala Carte

When the line is strictly cash and does not allow the use of tickets, the food item combinations which would normally qualify for reimbursement may not be claimed.

A computerized meal count system, which deducts the cost of a reimbursable meal from the account is acceptable.

### Reimbursable Ala Carte

If a sponsor chooses to claim reimbursement for ala carte meals, the following criteria must be met:

- Any student, regardless of eligibility category, must be able to use the line and must be allowed to either pay cash or use a ticket.
- There must be no overt identification of students by eligibility category.
- The complete meal must be offered and priced as a unit.
- Students must be allowed to choose all components of the reimbursable meal for the unit price.
- Students must select adequate food items to be considered a reimbursable meal.
- If a student does not take meal components which are considered a reimbursable meal, separate prices must be charged on each item. The meals cannot be claimed for reimbursement.
- The meals must be counted at the "point of service".

Offer vs. Serve (OVS) <https://www.fns.usda.gov/updated-offer-vs-serve-guidance-nslp-and-sbp-beginning-sy2015-16>

Offer versus Serve (OVS) is a provision in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) that allows students to decline some of the food offered. The goals of OVS are to reduce food waste while permitting students to decide what they want to eat.

In OVS, students must select at least three of the four food items offered in the School Breakfast Program and three of the five food components on the menu. Meals consisting of three, four, or five food components are reimbursable. Each tray must contain at least a half cup of fruit or vegetable or a mixture of fruit and vegetable to count. Schools cannot require students to take milk or protein items if the student already has three components on their tray. Students cannot be forced to eat any food.

OVS is required for grades 9 through 12 in the NSLP and optional but recommended at the lower grades. It is optional for all grades in SBP.

#### Leftover Foods

Sponsors are required to plan and prepare, based on participation trends, an adequate amount of food to provide one meal per child per meal service. Food prepared in excess of the quantity needed may be served again as a leftover. It is imperative that proper sanitation and food handling practices be used when utilizing leftover foods. Of major importance is that foods be reheated to the temperature of 165° F.

No food or supplies, including leftovers, may be taken from the school by adults. All purchased food and USDA donated foods are the property of the foodservice program. State agency or local authorities must be notified regarding the removal of food or USDA Foods. There are no restrictions against students exchanging food among themselves, taking a single serving of a non-perishable food in a back pack to eat later on the bus (if allowed by the school) or in the classroom or on the use of a sharing table if allowed by the local health inspector. These are all legitimate cases of students taking food from their tray for themselves, not a staff member taking large quantities of food home.

USDA policy allows the donation of leftover foods to soup kitchens or homeless shelters and other nonprofit facilities under compliance with state and local health standards. State law (N.D.C.C. 10-05.1) requires that foods donated be in sound condition and free from spoilage, and specifies that donating agencies are not liable for product donated. Under state law, donations may be made to any charitable and non-profit organizations.

#### Competitive Foods (Smart Snacks)

The Smart Snacks in School, an update in competitive foods standards, became effective July 1, 2014. The sale of competitive food items of minimal nutritional value is prohibited. More information can be found at USDA's Smart Snacks in School website.

#### Smart Snacks Regulations

The Health Hunger Free Kids Act of 2010 (HHFKA) ushered in many changes for school meals. It also gave USDA authority to establish nutrition standards for all foods and beverages sold to students in school during the school day.

Beginning Fall 2014, the following regulations have been ~~will be~~ in place for all foods SOLD to students during the school day. *The school day is considered midnight until one half-hour after the last bell.*

Any food sold in school must:

- Be a “whole grain rich” grain product; OR
- Have as the first ingredient a fruit, a vegetable, a dairy product or a protein food; OR
- Be a combination food that contains at least ¼ cup of fruit and/or vegetable;

Foods must ALSO meet these nutrient requirements (unless it is a fruit or vegetable with low amount added sugar)

- Calorie Limits
  - Snack items must be less than 200 calories
  - Entrée items must be less than 350 calories
- Sodium Limits
  - Snack items must be less than 200 mg
  - Entrée items must be less than 480 mg
- Fat Limits
  - Total fat must be less than 35% of calories
  - Saturated fat must be less than 10% of calories
  - Zero Trans Fat Grams
- Sugar Limit
  - Less than 35% of weight from total sugars

Entrees originally sold as part of the reimbursable meal are exempt for that day and the next day.

Beverage Standards

- All Schools may sell
  - Plain Water
  - Unflavored or flavored low-fat milk
  - Unflavored or flavored fat free milk and milk alternatives permitted by NSLP/SBP
  - 100% fruit or vegetable juice and
  - 100% fruit or vegetable juice diluted with water (with or without carbonation) and no added sweeteners
- Elementary Schools may sell up to 8-ounce portions, middle and high schools may sell up to 12 ounce portions.
- High schools may sell caffeinated beverages and beverages up to 20 ounces with < 40 calories per 8 ounces or < 60 calories per 12 ounces.
- 20-ounce beverages must be < 10 calories per 20 ounces.

Fundraisers and Classroom Parties

- The standards do not apply to food brought in for birthdays, parties, and other classroom activities, or a student’s cold lunch brought from home.
- The standards do not apply during non-school hours, on weekends and at off-campus fundraising events or for food ordered during the school day and taken home.
- States have the flexibility to set a certain number of fundraisers that can sell foods or beverages that do not meet the nutrition standards. North Dakota has set the limit at 3 exemptions per school building per year with a duration of one day.
- There is no limit on fundraisers that DO meet the new standards.

- Fundraising activities that take place outside of school, such as cookie dough or frozen pizza sales, are exempt from the nutrition standards. Distribution of order forms and the sale of foods not intended for consumption at school may continue.

A product calculator can be found online at:  
[www.foodplanner.healthiergeneration.org/calculator](http://www.foodplanner.healthiergeneration.org/calculator)

Enter the snack item nutrients, etc., (using the label on the snack), the calculator will determine if the snack qualifies!

A list of approved products can be found at: <https://www.amazon.com/smart-snacks/s?k=smart+snacks>

Another list of healthy products: <http://www.johnstalkerinstitute.org/alist/>

### Child Nutrition (CN) Labeling

The Child Nutrition (CN) Labeling Program is administered by the USDA. This voluntary program involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward the meal pattern requirements.

The CN label appears on a product label in a box outlined with "CN" on each side. The CN label does not mean that the USDA endorses a particular product. However, if a CN labeled product is used in accordance with the manufacturer's directions, the sponsor is protected from an overclaim being established during review or audit. Foodservice personnel are responsible for reading the information in the label and determining how the product contributes to the menu.

### Convenience Foods

The term "convenience food" refers to commercially prepared menu items. Those sponsors using convenience food items shall be responsible for providing information on how the product meets the meal pattern requirements. Signed product formulation statements (PFS) from a company or CN labels are examples of documentation. A tip sheet for evaluating a manufacturer's product formulation statement is available at: <https://fns-prod.azureedge.net/sites/default/files/cn/manufacturerPFStipsheet.pdf>

### Production Records

As an aid to effective food service management, school nutrition programs are required to maintain production information. The production information provides ongoing documentation of the menu, meal components, planned portion size, quantity prepared, number of meals served, and other information. This is valuable information for purchasing and future menu planning.

Production records will be evaluated during reviews conducted by the State Agency. A production record prototype is available to sponsors to assist in the maintaining of production information.

### Unopened Milk Cartons

School Lunch and Breakfast meal patterns require that milk be offered as part of each meal. However, students are not required to take milk as part of their meal. Students are not required to take milk if they already have 3 food components on their tray. As long as a student has 3

food components on their tray and one component is a fruit or vegetable, the meal is reimbursable. We have found several instances of school staff (not food service staff) forcing students to take milk. Ultimately, the student doesn't drink the milk, and it is wasted. Please do not require students to take milk if they do not want it.

If time is used as a public health control, schools have a 4-hour period where students can share and schools can resell unopened milk, cheese sticks and other temperature-controlled food or beverages.

### Storage

Sponsors must take preventive measures to avoid the loss of product due to the failure of freezers/coolers, spoilage, infestation or theft. Accordingly, it is recommended that sponsors contract with a qualified firm for pest control or have sponsor employees take preventive measures for pest control. Also, freezer/cooler operations and temperatures must be monitored on a routine basis, including during the summer months. Storage areas must be kept locked when not in use.

Foodservice items should be stored six inches (6") off the floor and away from the wall to allow for proper circulation. Frozen foods should be held at temperatures of -10 to 0 degrees F. Temperature readings should be taken at least three times per week during school, on school breaks and summer vacation. Foods requiring refrigeration must be maintained at temperatures of 36 to 40 degrees F. Dry storage areas must be maintained at a temperature not to exceed 70 degrees F. There should be proper ventilation in all storage areas.

### Inventory

(Reference *General Requirements for Federal Programs*, Page 15)

Equipment Inventory: It is required that an equipment inventory be maintained.

Food Inventory: The objectives of inventory are to prevent shortages, minimize food loss and keep inventories at moderate levels. Inventory methods for foodservice are of two major types: perpetual and physical.

A perpetual inventory is an up-to-date list of products on hand. These inventory records include the amount of food received, amount of food used, and amount of food in storage. Only full cases should be included in the inventory record. Perishable items are considered consumed each month; therefore, they are not inventoried. Entries must be posted to the perpetual inventory record daily for accuracy.

A physical inventory is an actual count of all items in storage. A physical inventory should be reconciled to the perpetual inventory and is usually taken once a month.

## B.2(c) USDA Food Policies

### Availability of USDA Food

The variety of foods made available by the USDA depends upon agricultural market conditions and other factors. From the foods available, the USDA makes an offering to the State Agency. The State Agency will accept or reject an offering based on annual food surveys completed by the sponsors, the nutritional value of the food, the price of the food, and other factors. USDA pays the initial costs associated with the packing, processing and transporting of product to the state warehouse.

The amount of USDA food available to the state is based on the State's Average Daily Participation (ADP) for lunch. The State Agency allocates a dollar amount to each sponsor based on its individual ADP.

#### SCH Entitlement

Each year, sponsors are advised of their SCH Entitlement. Entitlement is the dollar value of USDA food the sponsor is entitled to receive for the year, based on its Average Daily Participation (ADP). ADP is adjusted in October of each year using information from the sponsor Basic Claim for Reimbursement. The amount of Entitlement is equal to ADP times a variable USDA food assistance rate times 180 days for schools/365 days for institutions.

#### USDA Food Orders (Monthly Food Surveys and Annual Food Surveys)

Sponsors are asked to complete Monthly Food Surveys which are used to create each individual monthly Customer Order. Food Surveys for August and September deliveries are offered in April or May before the school year begins. The remaining Food Surveys are offered 30 to 40 days prior to the delivery month. (Example: The Food Survey for October delivery is offered during the first two weeks of September.) The individual listed as the Authorized Representative and USDA Representative will receive an email that a Food Survey is available for completion. Those individuals will also receive a notice in the NDFOODS work cue. The email will also include any specific instructions or comments to remember when completing that particular Food Survey.

Sponsors are required to complete an Annual Food Survey, which is used to provide demand data to DPI to assist them when ordering foods from USDA for the entire school year. Schools that do not complete the Annual Food survey will be the first to have their orders cut when food quantity becomes limited. Annual Food Surveys are offered in January before the school year begins. This survey is used for data only and will not be used to create the monthly customer orders. Sponsors are asked to spend 85-90% of PAL on the Yearly Pre-Food Survey. This will help get a better picture of what demand will be for the upcoming school year. Entitlement will return to the beginning balance on the first Monthly Food Survey in August for October delivery. The contact person listed on the sponsor's USDA FOODS Customer screen will receive an email that the Yearly Pre-Food Survey is available for completion. The email will also include any specific instructions or comments to remember when completing that particular Food Survey.

If more information is needed about a particular USDA food, click on the link below. The USDA Fact Sheets are available under the School Programs section under USDA Food Fact Sheets. <http://www.fns.usda.gov/usda-fis/usda-foods-product-information-sheets> Click on Fruits and Vegetables, Grains and/or Meat/Meat Alternatives.

Another resource is the USDA Food Buying Guide for Child Nutrition Programs. This is available at: <http://www.fns.usda.gov/tn/resources/foodbuyingguide.html>

#### Order Adjustments

At times, state inventory of USDA foods is not adequate to cover the demand from the monthly food surveys. Therefore, the state agency adjusts customer orders based on warehouse inventory. The order adjustments take place up to two to three weeks after the monthly food survey is completed. Each school district will be notified of the USDA foods and amount of each product that will be adjusted on that particular monthly customer order through an email generated by the NDFoods system.

## Delivery

The NDFoods system creates customer orders from the monthly food surveys submitted. One delivery is made to each sponsor each month. The sponsor may choose the location of the delivery site. Small schools may want to consolidate food orders to every other month to save on transportation expenses.

## Warehousing and Transportation Contracts

The State Agency, on behalf of sponsors, enters contracts for the warehousing and transportation of USDA foods. Contracts are entered which offer the most optimal warehousing and delivery system for the state. Contract price and other factors are considered when contracts are negotiated. Sponsors are advised annually of the name of the contractors, and of the procedures for remitting payment for services.

## Warehousing and Delivery Services

The State Agency is responsible for ensuring that USDA foods are safely warehoused and transported to sponsors. Sponsors participate in the state contract and have foods delivered at least monthly, or less frequently upon request. Under current contract terms, deliveries are made between 7:30 a.m. and 4:00 p.m. (this includes the lunch hour from noon-1:00 pm.), Monday through Friday. This schedule may be extended at the request of or by permission of the sponsor. The contractor is responsible for delivering the foods "to the dock". The contractor is not responsible or obligated to deliver foods to the storage or any other area of the facility.

Payments for warehousing and transporting are currently made using each agency's state match funds. When all of the sponsor's funds are used, the State Agency will notify the sponsor by customer receiving invoice from the NDFoods system of the amount due for transportation and warehousing.

## USDA Food Processing

Under USDA food processing, foods are further processed by commercial food processors into food items which are more usable or acceptable in the foodservice program. In processing, the value of the food is passed on to the sponsor in the form of a discount. USDA food may not be processed into another form without a processing agreement.

At the beginning of each school year, sponsors are advised by the State Agency of companies approved to process USDA food into end products.

**State Processing:** Under state processing, the agreement is initiated at the State Agency. Processed products are distributed through the normal distribution system.

**USDA Food Processing Invoicing:** Sponsors are billed for processing charges for foods which are processed items. There is a processing fee per case which is billed to the schools upon receipt of delivery. Processing charges are billed directly to the schools by DPI.

1. *DPI Direct Billing Information* – Schools receive an invoice from DPI for processed items purchased through the USDA food program. Payment is due to DPI within 60 days of receipt of invoice.

## Use of USDA Foods

The sponsor may use the USDA foods across programs as long as all income accrues to the nonprofit food service account in the same manner income currently accrues from the use of food or supplies purchased with food service account funds.

### Combining Customer Orders

Sponsors wishing to combine orders should notify the State Agency of this intent. Each sponsor should submit a separate order. The State Agency will combine the orders and arrange for delivery to a specified agency.

### Receipting of USDA Foods

Sponsors receive monthly orders that are delivered by the State contracted warehouse/delivery service or transportation vendor.

It is NOT the responsibility of the sponsor to receive the Customer Order in the NDFoods system. It is also not the responsibility of the sponsor to print off the invoice. All customer orders are received in the NDFoods by DPI based on the signature sheet from the warehouse. Instruction for receiving USDA foods is as follows:

1. Count and check the product into storage. When the foods arrive at the sponsor, the truck driver will present a paper copy of the Customer Order. This form will be used to check the product into storage.
2. Sign off on the shipping manifest. The truck driver will ask the sponsor to sign the shipping manifest. The sponsor will not be charged for short/damaged product. Entitlement for this short/damaged product will be reinstated to the sponsor's Entitlement account.
3. Note on the signature form any short or damaged product. Sign the manifest, noting short or damaged product and return it to the truck driver. By signing the manifest, it is an agreement that all foods have been received as expected, unless short/damage is noted. This is a legally binding signature. Make sure that all food is received, or exceptions clearly noted.
4. Payment for monthly invoice. The State contracted warehouse/delivery service will turn in the manifest signature sheets to DPI where the receiving information will be entered into the NDFoods system by Child Nutrition staff and an invoice will be generated and sent to the sponsor.

### Complaints

All complaints must be submitted in writing (preferably email). Complaints should include the following information:

- Name of school and person submitting the complaint
- Product name
- Date received
- Pack date or best if used by date
- Remaining product quantity
- Safety or health concerns

Foods may not be destroyed until the sponsor receives notification from the State Agency.

### Food Loss Claims

If a food loss occurs at the school, DPI needs to be notified immediately. There are three types of food loss claims: theft, spoilage due to power outage or infestation, items past their best if used by date.

All food loss claims should include the following information:

- Name of school and person submitting the food loss claim
- Date & Time Loss Discovered
- Date & Time of the loss
- Type of loss (Theft, Spoilage, Other)
- Type of storage (Freezer, Refrigeration, Dry)
- List of all USDA foods included in the loss
- Pack date or best if used by date

Food loss by spoilage should include the following information:

- Temperature of storage at the time the spoilage was discovered
- How often temperatures of storage area are checked
- Is there a warning device in place
- Name & Title of person monitoring temperatures
- Is loss covered by insurance
- Has a claim been filed with the insurance company

Food loss by theft should include the following information:

- Are storage areas locked (freezers, refrigerators, dry)
- Were the police involved (report issued?)
- Loss covered by insurance?
- Has a claim been filed with insurance agency?

All food loss claims must be reconciled. If the claim is under \$500, it is considered a no claim food loss. If the claim is over \$500, the sponsor must either repay the value of the loss or replace lost products with exact or like items. If the school chooses to repay, the school must submit a check to DPI in the dollar amount given for the total food loss claim. Once the check is received and verified by DPI, the school will be notified that the claim is closed. If the school decides to replace the product, the school is required to purchase like items. Schools must submit receipts for purchases dollar for dollar or case for case. DPI will monitor the balance remaining on the food loss claim until it is completely paid. Once the claim has no remaining balance, the school will be notified that the claim is closed.

### Inventories

Sponsors must treat and safeguard USDA foods just as it does other items purchased with foodservice account funds. Good inventory management and control practices must be maintained.

### Transfers

Occasionally, a sponsor may have an excess inventory of a USDA food item. A sponsor may arrange for a transfer of foods to another sponsor at a local level. Expenses incurred in the transfer of foods are the responsibility of the sponsor requesting the transfer.

If program operations will end at the sponsor due to school closing or other reason, the sponsor should make arrangements to transfer remaining foods to another sponsor. Usually, the sponsor receiving the majority of the students from a closing school will receive the available inventory of USDA foods.

## C. FINANCIAL ISSUES

### C.1 Financial Management System

(Reference *General Requirements for Federal Programs*, Page 17)

Federal regulations require sponsors to maintain a financial management system to account for revenues and expenditures of the school foodservice program. The financial management system must document that expenditures made with program funds are allowable and that the program is operating on a nonprofit basis. To maintain a nonprofit status, sponsors must maintain net cash resources which do not exceed three month's average expenditures.

Sponsors must adhere to the following financial management guidelines. All records shall be supported by source documents such as receipts and invoices. Records shall be maintained which adequately identify the source and use of all funds. Accurate, current and complete disclosure of the financial status of the school foodservice or nutrition programs shall be made as requested. Effective control over, and accountability for, all funds, property, and other school foodservice or nutrition program assets shall be made to assure that they are safeguarded and used solely for authorized purposes.

For the recording and reporting of financial transactions, a computerized or manual ledger must be maintained. In public school districts, the ledger should be designed to identify revenue and expenditure object codes from the North Dakota School District Financial Report, Fund Group 5, Food Services. Private, nonprofit and other sponsors must identify revenues and expenditures in the following categories:

Types of Revenue: Student Payments, Adult Payments, Federal Reimbursement, State Matching Income, Transfers and/or School District Contribution, Interest Income, Other Income

Most common types of Expenses: Food, Salaries and Benefits, Supplies, Food Service equipment, Purchased services, Interfund Transfer, Indirect Costs

Following is a partial listing of allowable and unallowable foodservice expenditures. (Reference *General Requirements for Federal Programs*, Page 17-18) If additional information is needed concerning the allowability of an expenditure, the State Agency should be contacted.

Allowable Costs:

- Accounting Payroll Preparation
- Compensation for Personnel Administration
- Legal Expenses
- Bonding
- Audit Services
- Procurement Service
- Consulting Services
- Communications
- Printing and Reproduction
- Advertising and Professional Activities
- Exhibits
- Materials and Supplies such as food
- Central stores, warehouses, kitchens
- Memberships, Subscriptions
- Training and Education
- Employee Fringe Benefits
- Transportation
- Travel

- Equipment
- Maintenance and Repair
- Depreciation

Unallowable Costs:

- Bad Debts
- Entertainment
- Gratuities
- Rent or Usage fees for district-owned facilities
- Contingencies
- Fines and Penalties
- Contributions and Donations
- Interest and Other Financial Costs
- Land Purchases
- Building construction or acquisition

### C.2 North Dakota Foods (NDFoods) System

The State Agency manages the USDA programs on the NDFoods system, an Internet based application. With the NDFoods system, most program business functions are performed over the Internet. Local nutrition programs complete and update their annual application and monthly claims for reimbursement over the NDFoods system.

### C.3 Procurement

(Reference *General Requirements for Federal Programs*, Page 16-24)

Federal regulations outline procurement requirements and ensure that supplies, materials and services are obtained efficiently and economically. All procurement transactions, regardless of procurement method, shall be conducted in a manner that provides maximum open and free competition. The procurement procedures must not restrict or eliminate competition. Equipment purchases over \$5,000 require pre-approval by NDDPI.

Sponsors are required to develop and follow a procurement plan. A procurement plan or policy statement are advantageous because it can 1) clarify the procurement practices of the sponsor for the benefit of all staff involved, and 2) serve as documentation for the use of various procurement methods.

There are four basic procurement methods: small purchases (informal), competitive sealed bids (formal advertising), competitive negotiation, and noncompetitive proposals (item is only available from a single source). Using the appropriate method will ensure that goods and services are obtained at the lowest cost, with the greatest program benefits. You must document whether formal or informal procedures will be used.

#### Small purchase

Procedures are informal and relatively simple. Price or rate quotations must be obtained from an adequate number of qualified suppliers (at least two). The federal threshold for small purchases is \$150,000 or less. However, since the state threshold is more stringent (an aggregate amount less than \$25,000), the state threshold must be applied. The state requirements and exclusions can be found in the *North Dakota Century School Code – 15.1-09-34*. Purchases exceeding the small purchase threshold established by State code must follow formal procurement procedures. Reference: *General Requirements for Federal Programs*, pages 19-20.

Federal regulations (7 CFR 3017.30) require sponsors to exclude contractors who are debarred or suspended from federal programs from bidding on contracts over \$25,000. Sponsors can check the federally debarred list at <https://www.dol.gov/ofccp/regs/compliance/preaward/debarlist.htm> Copy the page that would contain the company name if the company was debarred and attach the page to the bid award document.

Under small purchase procedures, there must be a uniform description or specification of the item to be purchased. The description must contain all the requirements which the vendor must fulfill, and all factors to be used in evaluating the vendor responses. The request for bids and bid responses can be either in writing or verbal. An adequate number of qualified sources, determined by local market conditions, must be contacted to provide quotes.

Other Procurement Methods - The following procurement methods are less frequently used by sponsors for acquisitions for school foodservice programs. For additional information and guidance on these methods, the State Agency may be contacted.

#### Competitive Sealed Bids (formal advertising)

- Invitation to bid
- Clear and complete specifications
- Advertised
- Sealed bids
- Public bid opening
- Unresponsive bids rejected
- Firm-fixed price contract awarded to lowest responsive bidder

#### Competitive Negotiation

- Request for proposal
- Description of required goods/services
- Advertised
- Technical evaluation of proposals
- Negotiation with top offers
- Price and other factors considered
- Fixed price or cost reimbursable contract awarded

#### Procurement by Noncompetitive Proposals

- Item available from a single source only

#### Appropriate Procurement Practices

Contact State administering agency for:

- State procurement requirements
- Technical assistance and guidance

Contact State purchasing offices for:

- Purchasing under State contracts

Plan the procurement:

- Identify the current and future needs
- Identify relevant specifications
- Identify the procurement method
- Make reasonable effort to open procurement of small, minority-owned firms

Follow a code of conduct:

- Avoid conflicts of interest

- Write your own specifications, bid documents, and contracts

Seek maximum open and free competition:

- Identify sources of supply
- Directly solicit and advertise purchases
- Allow bidders sufficient time to reply
- Ensure that published solicitations include all requirements to which bidders must respond and explain how responses will be evaluated

Award contracts to responsive and responsible bidders:

- Enforce contract terms and conditions
- Document nonperformance in writing

Inadequate Procurement Practices

Do not unduly restrict competition with:

- Unnecessary education or experience requirements
- Excessive bonding requirements
- Highly prescriptive specifications

Do not compromise procurement integrity by:

- Allowing potential contractors to write bid documents, bid specifications and contract terms.
- Accepting gifts and compensation from potential contractors.

Do not impulse buy:

- Purchase without planning
- Duplicative and unnecessary purchases

Do not undermine the procurement process by:

- Subdividing purchases to avoid formal bid thresholds.
- Withholding necessary information from potential bidders.
- Negotiating sealed bid procurements with potential contractors.
- Evaluating non-responsive bids.
- Allowing contractors to make material changes to contract without following prescribed procedures for amending contracts

Do not fail to enforce contract terms and conditions by accepting:

- Goods that do not meet specifications
- Unreasonable contractor delays
- Unauthorized substitutions or price increases

Bidder Restrictions

Federal regulation excludes any person that performs any services directly related to procurement action (writing specifications, invitations to bid, etc.) from competing for that procurement regardless of the procurement method used.

Buy American: <https://www.fns.usda.gov/school-meals/compliance-enforcement-buy-american>

When purchasing food products with federal funds, sponsors must purchase, whenever possible, only food products that are produced in the United States. This means an un-manufactured food product produced in the United States or a product that is manufactured in the United States containing ingredients of United States origin. Exceptions include:

1. The program participants have unusual or ethnic food preferences which can only be met through purchases of products not produced in the United States.
2. The product is not produced or manufactured in the United States in sufficient and reasonable available quantities of a satisfactory quality, such as bananas.
3. The cost of the United States produced food product is significantly higher than foreign

products.

Geographic Preference: <https://www.fns.usda.gov/procurement-geographic-preference-qas-%E2%80%93-part-ii>

Effective October 1, 2008, USDA allowed schools to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. It does not require institutions to purchase locally or apply a geographic preference. Geographic preference may only be applied to the procurement of unprocessed agricultural products which are locally grown and locally raised, and that have not been cooked, seasoned, canned, or combined with any other products. Minimal handling and preparation is allowed such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk and putting eggs in a carton.

After observing the impact of the term “unprocessed”, USDA determined that the original guidance was unnecessarily restrictive. Accordingly, the following handling and preservation techniques are now allowed: cooling, freezing, peeling, dicing, slicing, cutting, chopping, shucking, grinding, drying/dehydrating, vacuum packing and cold pasteurization. Additionally, using a minimal amount of preservatives on locally grown produce may be needed for the purpose of preventing spoilage and would be acceptable. It is also important to note that all milk served in the Child Nutrition Programs must be pasteurized and meet State standards. Pasteurized milk is the only dairy product for which geographic preference may be applied.

While geographic preference may be used to encourage the purchase of locally grown products by enabling an institution to grant an advantage to local growers, this provision does not eliminate the requirement for procurements to be conducted in a manner that allows for free and open competition, consistent with the institution’s responsibility to be responsible stewards of federal funds.

#### C.4 Purchasing for Personal Use

The food service operation should be operated in a businesslike manner. The money received as reimbursement for these programs is public tax money. Therefore, food service employees are subject to scrutiny from taxpayers.

Sponsors are discouraged from allowing employees to purchase food or supplies for personal use from school vendors since:

1. It could be a conflict of interest. The purchaser may have a feeling of responsibility for business with the vendor.
2. It could be unfair competition. The tax paying grocer in your community would look at it this way.
3. It could be considered a special benefit. All the taxpayers in your community do not have this benefit.
4. It could appear to be theft from the school. Someone who sees such purchases leaving the school does not know that the items were not paid for by the school.

#### C.5 Audit

(Reference *General Requirements for Federal Programs*, Page 26)

Sponsors must follow audit requirements outlined in Office of Management and Budget (OMB) Circular A-133. This applies to all institutions, public and private, receiving \$500,000 or more per year in federal assistance. Federal assistance includes federal reimbursement payments

and the value of donated commodities.

In lieu of an organization-wide audit, sponsors may conduct a program-specific audit. Program-specific audits are most common when only one federal program is administered by the sponsor. The audit may be conducted by a State Auditor or by a state-licensed private auditor independent of the sponsor being audited.

The USDA and Office of the Inspector General have reserved the right to audit the State Agency and sponsors at any reasonable time.

#### C.6 Basic Claim for Reimbursement

Claims for reimbursement are filed over the NDFoods system. A separate claim is filed for each site.

There are a series of automated edit checks built into the claim. Many of these edits are tied to information on the Sponsor and Site applications. For this reason, it is very important to maintain accurate, updated information about local program operations on the NDFoods system.

Common claiming errors and edit failures can be avoided if the sponsor has correctly reported 1) the attendance factor percentage on the site application, and 2) enrollment information on the claim for reimbursement. Sponsor and Site application information can be updated at any time during the year on the NDFoods system.

The State Agency will work with sponsor personnel when there are problems with the claim, and every effort will be made to process and pay the claim in a timely manner.

#### C.7 Claim Submission

Sponsors are strongly encouraged to submit their claims for reimbursement over the NDFoods system by the 10th of the month following the claim month to expedite payment.

Upward adjustments to original claims or late claims may be submitted any time up to sixty days after the last day of the claim month.

#### C.8 Upward Adjustment

Upward adjustments are those which result in more funds to be paid to the sponsor. Upward adjustments which are submitted past the sixty-day time period can be made only when detected on a review or audit of program operations. Claims submitted after the sixty-day time period cannot be paid. Exceptions to this rule may be granted as the result of a review or audit, or at the request of the sponsor. Sponsors can request one exception for an upward adjustment in a 36-month period.

In the case of an upward adjustment, the sponsor will file an adjusted claim(s) on the NDFoods system. The claim(s) will be processed, and an adjusting payment will be made.

#### C.9 Downward Adjustment

Downward adjustments are those which result in fewer funds to be paid to the sponsor. This is called an overpayment. Downward adjustments can be accepted at any time. The sponsor will file an adjusted claim(s) on the NDFoods system. The claim will be processed and the sponsor will be given instructions for repayment to the USDA.

#### C.10 Payments Due to State Agency

The State Agency will notify sponsors of repayment necessary from audit, review or other findings. A letter requesting repayment will be sent to the sponsors specifying that payment is due within 30 days. In accordance with federal regulation and instruction, interest will accrue if payment is not received within this period.

#### C.11 Nonprofit School Foodservice

Federal regulations require that school foodservice programs operate on a nonprofit basis. Nonprofit status is defined as an ending balance which does not exceed three month's average expenditures. Nonprofit status will be monitored from sponsor financial records submitted to the Department of Public Instruction and during program reviews.

If the ending cash balance is in excess of the three-month operating balance, the State Agency will request a written plan to reduce the balance. Excess balances may be reduced by repaying outstanding loans to the program, purchasing foodservice equipment, reducing student charges, improving menu offerings, adjusting the salaries/benefits of foodservice personnel, or setting aside funds for the anticipated purchase of large equipment.

#### C.12 Indirect Costs

Indirect costs may be charged to the school food service program. Indirect expenses are those which are incurred by the school/district and benefit the foodservice program. Examples of indirect expenses are costs for administration, governance and plant maintenance. These costs are not readily identifiable to the foodservice program.

Indirect costs may be charged to the foodservice program by applying the approved unrestricted indirect cost rate or negotiated rate to base expenditures in the foodservice program. Base expenditures include salaries/benefits, food, supplies, professional services and others. A sponsor may request its indirect cost rate by contacting the State Agency. Sponsors other than public school districts, including private schools, may negotiate a rate with the State Agency not to exceed 10%.

#### C.13 Severe Need School Breakfast Program

Sponsors in which 40% or more of the lunches served to students at the school in the second preceding year were served free or at a reduced-price qualify for severe need breakfast rates. The additional severe need rate, which is adjusted annually, is paid for each reduced price and free breakfast claimed.

#### C.14 State Matching Payment

The State Agency is required by law and regulation to distribute state appropriated general funds to sponsors on a prorated basis. Each sponsor's state match funds are used for payment of warehouse and transportation charges for the delivery of USDA foods. Any remaining state match funds are distributed to sponsors in April of each year. The amount of state matching received must be recorded in the ledger as state matching income.

State match balance and use may be viewed on the NDFoods system under the Sponsor program section SCH details.

### D. INCOME ELIGIBILITY GUIDANCE

#### D.1 Definitions

Household is defined as a group of related or non-related individuals, who are

not residents of an institution or boarding house but are living as one economic unit. Economic Unit means a group of related or unrelated people who share all significant income and expenses of its members. Economic units are characterized by the sharing of expenses such as food, housing, medical and household expenses. More than one economic unit may live in the same house. Separate economic units living in the same house are characterized by prorating expenses and establishing economic independence from each other.

Household of One refers to a child who is not living in a household as defined above. Examples of a household of one include institutionalized children, foster children and children attending school who live on their own.

Income to be reported on the household's free and reduced-price application form is a gross figure and generally is considered to be any monies received on a recurring basis. Specifically, gross income means money earned before deductions. No adjustments are to be made for special hardship conditions. Income includes the following:

- wages, salaries, tips, commissions;
- social security benefits;
- dividends or interest on savings or bonds;
- income from estates or trusts;
- supplemental security income (SSI);
- public assistance or welfare payments, (not food stamp benefits);
- unemployment compensations;
- workers compensation;
- government civilian employee or military retirement or pensions;
- veteran's payments;
- pensions, annuities, and retirement income;
- child support payments or alimony;
- regular contributions from persons not living in the household;
- rental income and royalties, net income for self-employed farmers and business-persons;
- strike benefits;
- disability payments;
- interest income; and
- other cash income.

Other cash income includes cash amounts received or withdrawn from investments, trust accounts, and other resources, which would be available to pay for meals.

Income exclusions are:

- any cash income or value of benefits a household receives from any federal program that excludes such income by legislative prohibition (programs are periodically added and the sponsor should contact the State Agency for information);
- value of food stamps provided under the SNAP Stamp Program;
- Temporary Assistance to Needy Families (TANF) benefits;
- student financial assistance such as grants/scholarships awarded to meet educational expenses, even if used for room and board, including Pell Grants and Supplemental Educational Opportunity Grants;
- loans (such as bank loans) since the funds are only available on a temporary basis and must be repaid;

- the value of in-kind compensation allowances, such as military base housing or other subsidized housing;
- occasional earnings received on an irregular basis by students such as occasional babysitting or mowing lawns.

Current Income means income received by the household during the month prior to application. When such method does not accurately reflect the household's income, such as with self-employed or seasonal workers, income may be based on a projected annual household income.

Categorically Eligible: Groups of students automatically eligible for free meals without filling out an income application. Documentation is required.

- Homeless: Local liaison or homeless shelter director certifies list under the McKinney-Vento Act.
- Migrant: Farmer/Employer or migrant director certifies list
- FDPIR USDA food Assistance List
- Direct Certification SNAP (Food Stamp) list provided by DPI on STARS
- Runaways: Served by grant programs under the Runaway and Homeless Youth Act.
- Foster children

#### Foster Children

The Healthy, Hunger-Free Kids Act of 2010 (USDA Memo SP-17-2011) provides categorical eligibility for free meals to foster children. The foster parent can check the foster child box on the income application next to a child's name or the sponsor can make a list of students that are foster children and have the local agency that places foster children verify that all students on the list are foster children.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court-based systems.

Direct Certification: Students who are receiving SNAP and/or TANF benefits through the Department of Human Services (DHS) are automatically eligible for free meal benefits through the NSLP and SBP. Our Direct Certification System is accessed through STARS. This system provides up-to-date Direct Certification information based on each district's enrollment entered into STARS.

USDA Food Assistance Students who receive USDA foods through the Food Distribution Program on Indian Reservations (FDPIR) are categorically eligible to receive free meals. Families can fill out an application or the school can obtain a list from the local FDPIR office.

#### D.2 General Requirements

All sponsors participating in the NSLP, SBP, ASP, FFVP or SMP must make meals, snacks, and/or milk available to all eligible students in attendance who wish to participate in the program(s). Free and reduced-price meals or snacks, or free milk must be made available to students who meet income eligibility requirements. This includes pre-k students.

The state and sponsor requirements for providing free and reduced-price benefits are outlined in the Free and Reduced- Price Policy Statement (SFN 9184/SFN 9185) and Attachments.

To be eligible to receive reimbursement for meals, snacks, and milk served, the sponsor must have an approved policy statement on file at the State Agency. The policy statement, as approved, is considered part of the agreement to operate the programs.

### D.3 Policy Statement

The policy statement includes 1) the name of the individual designated to make eligibility determinations, 2) the name of the hearing official, 3) an assurance that the sponsor will abide by established hearing procedures and nondiscrimination practices, 4) the procedures to accept applications for free and reduced-price meal benefits.

### D.4 Policy Statement Attachments

Attachments to the policy statement are 1) the income eligibility guidelines for the current school year, 2) a description of the method(s) used to collect payments from students while preventing overt identification and a description of the claim preparation method (SFN 9188), 3) a copy of the free and reduced-price meal application form and letter or notice to households, 4) notice to households of approval or denial of benefits, 5) notice to households of change in benefits. Forms are available on our website.

<https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/SchoolNutritionPrograms/FreeReducedInformation/>

### D.5 Public Release

Near the beginning of each school year, the public must be notified of program availability. The State Agency has assumed the responsibility for this notification. Each August, a public notice is provided to all official county newspapers advising of the availability of the program and listing all participating sponsors. If a sponsor wishes that this notice be printed in an alternative newspaper, the state agency will provide release upon request.

### D.6 Overview of Approval Process

The following is an overview of the free and reduced-price approval process. Foreign language translations of the application and related materials are available through USDA. Contact the State Agency for more information.

- The Letter to Households, and Application Form, must be provided to the households of all enrolled students to inform them of the application process for free or reduced-price meal benefits. These forms must be distributed prior to the beginning of the school year, during the first week of school, or at the time a student enrolls.
- The application must be dated upon receipt from the household.
- When the application has been dated, the determining official will review the application to ensure that all required items are present. The items are:

Households which receive SNAP/TANF Benefits/FDPIR USDA Food Assistance:

- name of the child
- the child's SNAP or TANF case number, or an indication of the receipt of FDPIR assistance. Electronic Benefits Transfer (EBT) Card account numbers are not acceptable on the application.
- signature of the adult household member completing the application

Other Households:

- the names of all household members
- last four digits of the Social Security number of the person signing the application or an indication that this household member does not have a social security number
- the amount of income received by each household member identified by source
- the signature of the adult household member completing the application

The determining official must make an effort to obtain any missing information before making a determination on the application. Information may be obtained by telephone, written communication or in person. If an application is incomplete, it cannot be approved.

- When it has been determined that the items necessary are present, an eligibility determination must be made based on the household size and the reported income, the case number supplied, or the indication of receipt of FDPIR - Assistance.
- Determinations cannot be delayed if information is missing which is not required.
- Households must be informed of the eligibility determination. The date the household was notified of the approval should be noted on the back of the application.
- If the application is denied, applicants must be (1) notified in writing citing the reason for the denial, (2) given instructions on how to appeal the decision, and (3) informed that they may reapply at any time during the school year. Applicants do not receive benefits during the appeal process.

#### D.7 Direct Certification

Students who are receiving SNAP and/or TANF benefits through the Department of Human Services (DHS) are automatically eligible for free meal benefits through the NSLP and SBP. Our Direct Certification System is accessed through STARS. Each sponsor will need to access the NDDPI STARS system to view a list of students electronically matched from the sponsor's STARS enrollment and the SNAP database. Students on this Direct Certification list are categorically eligible for free meals. This system provides up-to-date Direct Certification information based on each district's enrollment entered into STARS. NDDPI will have a list of students receiving SNAP benefits on STARS every year in August. Sponsors must access the list and check either enroll or not enroll for the students on the list. As new students are identified as Direct Certified, LEA contacts will be notified via e-mail. All persons listed as Authorized Representatives and Recordkeepers in the Child Nutrition NDFoods system have been set up as contacts for Direct Certification. Please contact our office if contact information needs to be changed. We will also send each school an email notification if an enrolled student becomes eligible for SNAP benefits during the school year. These students are categorically eligible for free meals with no further documentation.

All students in a SNAP household are automatically eligible for free meals. Students not included in the STARS direct certification notification can be written in on the bottom of the printed list with an indication of which household they reside with.

To access the Direct Certification application on STARS, LEA administrators will have to grant permissions to those persons responsible for maintaining free/reduced price eligibility information. Permissions are granted through the Educational Unit Permissions section and the Special Programs section on STARS.

#### D.8 Benefits Prior to Processing Applications (30 Day Carry-over)

USDA requires a carry-over of eligibility of up to 30 operating days into the subsequent school year. This applies to direct certifications, categorical determinations and income applications. New eligibility determinations supersede the carryover eligibility and are in effect as soon as

the household is notified of the new determination. Sponsors cannot require new applications until the carry-over date. Sponsors must discontinue carryover of eligibility no later than 30 operating days into the new school year for families that do not re-apply.

#### D.9 Application Processing Timeframe

Applications must be reviewed, and an eligibility determination made within 10 working days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for new students who do not have approved applications on file from the previous year.

#### D.10 Application Approval or Denial

Categorically eligible (SNAP/TANF/FDPIR Assistance) households:

Households that submit a complete application including a valid SNAP (Food Stamp) or TANF case number or an indication of receiving FDPIR Assistance for the child for whom application is made must be approved for free benefits.

Electronic Benefits Transfer (EBT) Card account numbers are not acceptable on the application.

Income eligible households:

Households that submit a complete application indicating total household income at or below the income limits for free or reduced-price benefits must be approved for free or reduced-price meal benefits.

Households that submit an incomplete application cannot be approved. If any required information is missing, the information must be obtained before an eligibility determination can be made.

To obtain the required information, the sponsor may return the application to the household or contact the household either by telephone or in writing. The determining official should document the details of the contact, and date and initial the entry.

Exception: If the application is missing the signature of an adult household member, the application must be returned to the household. In signing the application, the household member certifies that the information on the application is true and correct.

Every reasonable effort should be made to obtain the missing information prior to denying the application.

Households that are not categorically eligible or income eligible cannot be approved for benefits.

If there are any inconsistencies or questions concerning the required eligibility information provided, the household's application must be denied unless the inconsistencies or questions are resolved. For instance, if it is unclear whether the household provided weekly or monthly income, this issue must be resolved before an eligibility determination can be made. The official may contact the household prior to denial, document the details of the contact, and date and initial the entry.

If the application form specifies a frequency of income such as monthly, a sponsor may, in most cases, assume that the income listed on the face of the application is received for that frequency unless the household has indicated otherwise. If the amount appears to be

inconsistent with the frequency, the sponsor should follow up to clarify.

#### D.11 Computation of Current Income

Current income means income received by the household during the month prior to application and multiplied by 12 to reflect annual income. This is the basic standard to be used to determine a household's current annual income. To convert biweekly income to an annual amount, multiply the biweekly amount by 26, weekly income by 52, and income received twice a month by 24.

The sponsor may find it easier to compute total monthly income for a household. To compute this, weekly income is multiplied by 4.33, income received every two weeks (or biweekly) is multiplied by 2.15 and income received twice a month is multiplied by 2.

When such methods do not accurately reflect the household's rate of income, such as self-employed or seasonal workers, income should be based on a projected annual household income with documentation which can support the projection. Income from the previous year may be used as a base for estimating the current year's income for self-employed seasonal workers.

#### D.12 Elimination of Temporary Approval

The final rule, "Applying for Free and Reduced-Price Meals in the National School Lunch Program and for Benefits in the Special Milk Program," eliminated the practice of temporary approvals for free or reduced price meal benefits (76 FR 66849, October 28, 2011). The Child Nutrition and WIC Reauthorization Act of 2004 extended the eligibility period in NSLP to 12 months, eliminating the use of temporary approvals. When a household reports zero income, eligibility must be determined based on zero income.

#### D.13 Households that Fail to Apply

Sponsor officials may complete an application for a student known to be eligible if the household fails to apply.

When exercising this option, the sponsor official must complete an application on behalf of the student based on the household size and income information available and make an eligibility determination. The source of the information must be noted on the application. Names of household members, Social Security number, and signature of an adult household member do not need to be secured. These applications are excluded from verification. However, the household must be notified that the student has been approved and is receiving free or reduced-price meal benefits.

This option is intended for limited use in individual situations and must not be used to make eligibility determinations for categories or groups of students or just because a family has not been paying for meals. This option is not allowed in sponsors whom do not charge for meals.

#### D.14 Categorically Eligible Children (Homeless, Migrant, Foster Children)

Recognizing the problem of increasing homelessness in our nation, a policy has been established to simplify access to free meals for homeless children under the child nutrition programs.

The following procedures may be used when an application is not submitted by the household or it is not anticipated that an application will be submitted:

School officials may accept documentation that the children are homeless from the local educational liaison or directors of homeless shelters where the children reside. Documentation to substantiate free meal eligibility must consist of the child's name, or a list of names, effective dates, and the signature of the local educational liaison or the director of the homeless shelter. This documentation is acceptable in lieu of individual applications. This documentation must include, at a minimum, the following information:

- a. Child's name
- b. Effective date
- c. Date no longer homeless or withdrawn from the institution
- d. Residence (shelter, unknown, etc)
- e. Signature of determining official

A child or family may temporarily reside with another household and still be considered homeless under the definition of homeless in the McKinney-Vento Homeless Assistance Act. In these cases, the household size and income of the host family is not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the local educational agency liaison. Additionally, when a host family applies for free and reduced-price meals for their own children, the host family may if it chooses, include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing or food. In such cases, the host family must also include any income received by the homeless family. School officials must determine eligibility for the host family in the traditional manner. However, free meal eligibility for the homeless child is based on the documentation provided by the local education liaison, even when the child is included on the host family's free and reduced-price meal application. If the host family meets the free or reduced-price meal eligibility criteria, school officials should provide the host family with temporary approval for free or reduced-price meal benefits, as appropriate. The host family's eligibility should be reevaluated when their household size decreases, i.e. the homeless family leaves.

Runaway and migrant children are also categorically eligible for free meal benefits under the National School Lunch and School Breakfast Programs. There are also requirements for documenting a child's status as runaway or migratory. Contact the State agency for further information.

#### Foster Children

The Healthy, Hunger-Free Kids Act of 2010 (USDA Memo SP-17-2011) provides categorical eligibility for free meals to foster children. It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court-based systems.

Foster children are categorically eligible. The foster parent can check the foster child box on the income application next to a child's name or the sponsor can make a list of students that are foster children and have the local agency that places foster children verify that all students on the list are foster children.

Households with foster and non-foster children may choose to include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children. This will streamline the application process and may help the foster family's non-foster children qualify for free or reduced-price meals based on household size and income. In processing the application, the sponsor would certify the foster child for free meals, and then make an eligibility determination

for the remainder of the household based on the household's income. Foster payments received by the family from the placing agency are not considered income and do not need to be reported. Please note that the presence of a foster child in the household does not convey eligibility for free meals to all children in the household in the same manner as SNAP, TANF and FDPIR participation does.

#### D.15 Notification of Eligibility Determination

All households must be notified of their eligibility status. Households denied benefits must be given written notification of the denial. The notification must advise the household of:

- the reason for the denial of benefits,
- the right to appeal,
- instructions on how to appeal, and
- a statement that households may reapply for free and reduced-price meal benefits at any time during the school year.

#### D.16 Changes in Household Circumstances

Once approved, eligibility is good for the entire school year. Households are not required to notify the school if their income increases. Households may still reapply during the school year if they feel their benefits will increase (reduced price-free).

Applications are still subject to changes that may occur as a result of verification. Eligibility of households listed on temporarily approved applications may change once income or SNAP/TANF benefit information is received by the school.

#### D.17 Appeals

When a household disagrees with a decision to deny, reduce or terminate its benefits, the household may appeal the adverse action. Households which have previously been approved for benefits will continue to receive benefits if they appeal the adverse action within the ten-day notice period.

Regulations do not require households to pay back money for benefits they have already received; in the event it is determined the household is not eligible for benefits currently received.

#### D.18 Application Records

All free and reduced-price meal applications, including applications from households denied benefits and inactive applications, must be kept on file for a minimum of three years after the end of the fiscal year to which they pertain, and they must be readily retrievable by school. Files must be kept longer if they are required by an audit but may be discarded after resolution of the issues raised by the audit.

Sponsors that have implemented a Special Provision as outlined in B.2 (a) must maintain application records from the base year for the duration of time that the sponsor claims meals based on base year information plus three years after the end of the fiscal year to which they pertain.

For applications from households approved for benefits, the determining official should indicate the date each application is approved, and the level of benefit for which each child is approved, and sign or initial the application.

For applications from households denied benefits, the determining official must identify and

retain on file the reasons for the denial. Records should also include the date of the denial, the date the denial notice is sent, and the name of the determining official. These may be noted directly on the application.

For changes in application status, determining officials should note the change and the date of the change on the application and on any rosters used. When a child transfers to another school with the sponsor and meal applications are not centrally filed, a copy of the application must be retained at both the sending and receiving schools and the date of the transfer noted. Current applications must be on file and there must be records to support transfers of students in and out of the school.

Applications may be maintained either at the school or at a central location with a list of eligible students maintained at the school. If a sponsor elects to maintain applications at a central location, they must be readily retrievable by school, and the sponsor must ensure that changes in eligibility status and transfers in and out of the school are accurately reflected on each school's list in a timely fashion as required by regulations. If there is an increase in benefits, the change must be made within three days. If there is a decrease in benefits, the change must be made within ten days.

#### D. 19 Automated Application Determination Systems

When an automated system is used for application determinations, the level of benefits for which a student was approved (or denied) and the date of the determination should be indicated by the student's name on the computer printout. This information must be available not only on a current basis but also for prior months.

Sponsors using a computerized system to determine eligibility are not required to complete the "school use" section of the application as long as eligibility determination can be tracked by roster or other documentation. Changes to household size, income, etc. must be documented on the application form as well as on the computer or electronic database. The application form is the official source document from which eligibility is determined.

#### D.20 QUESTIONS AND ANSWERS -- Income eligibility

##### D.20 (a) Distribution of Free and Reduced-Price Applications

###### Applications/Letter to Households

*Q: When should I distribute applications and letters to households concerning free and reduced-price meals?*

*A: If possible, applications and letters should be provided to households of all school students in advance of the opening of school. When this is not possible, applications and letters should be provided within the first week of school. An eligibility determination on the application returned to the school should take place as soon as possible but must be made within ten working days after the complete application has been received.*

*Q: When can a household submit an application for free or reduced-price benefits?*

*A: A household may apply for benefits at any time during the school year.*

*Q: May we require a household to submit an application for free or reduced-price benefits?*

A: No. Sponsor officials must provide the letter to households and free and reduced-price application to all enrolled households. They may also request that households apply. They may not, however, require households to apply for free or reduced-price meal benefits.

## D.20 (b) Determining Eligibility

### Applications from the Previous Year

*Q: Can I serve free and reduced-price meals at the beginning of the school year before current year's applications have been approved?*

A: Yes. USDA requires carry-over of eligibility for up to 30 operating days into the subsequent school year. This includes new kindergarten students of families previously determined free or reduced-price. New eligibility determinations in the current school year supersede the carry-over eligibility.

### Incomplete Application

*Q: What should I do if the returned application is missing one of the required items such as the signature?*

A: An eligibility determination cannot be made. However, you should make a reasonable effort to obtain the missing items prior to denying the application. Such efforts could include contacting the household by telephone or in writing to obtain the missing items. The determining official should document any information collected on the application form.

*Q: If a returned application is missing information other than the required items, such as the address or the name of the schools the children attend, can I make an eligibility determination?*

A: Yes. If the required items are present, you must make an eligibility determination. You should follow established local policies for obtaining missing information beyond the required items.

*Q: What if there is no income information listed on an application form, but the household has attached income documentation such as pay stubs?*

A: Income information must be listed on the actual application form. In this case, if possible, the household should be required to write the income information on the form. It is also acceptable to contact the household and ask if the attached income documentation is accurate and represents all income received by the household. The determining official may then transfer the information to the front of the application form. All documentation made by the determining official should be initialed and dated.

*Q: What should I do if a household not receiving SNAP, TANF or FDPIR assistance benefits does not provide income information on the application form?*

A: No determination can be made. A dollar amount must be listed on each income application before a determination can be made. The household should be contacted to secure the missing information. You must have the household size and income to determine eligibility. You should document the details of your contact and the information you receive on the household's application.

## Child Support

*Q: How do I determine income and eligibility for households receiving child support?*

A: The household who has the children and receives child support payments must count the payments as part of the household income. All children would be counted as part of the household size. If the support is not received every month, please note how frequently it is received on the application.

The household who is paying child support must report gross income and may not count the children who are being supported as part of the household size. Child support paid out cannot be deducted.

## Hardship Conditions

*Q: Can special hardships, such as high medical costs and disasters, be considered when approving applications?*

A: No. Approval of applications can be made only on income that is reported.

## Income Not Reported

*Q: What types of income should not be reported on the application?*

A: Income not to be reported includes any cash income or value of benefits a household may receive from any Federal program that excludes such income by any legislative prohibition. An example would be any monies received by volunteers for services performed under such programs authorized by the Domestic Volunteer Services Act of 1973, as amended. This Act includes such programs as the Foster Grandparents Program, Volunteer Management Support Program, Senior Companions Program, VISTA, and the National Older Americans Volunteer Program, student financial assistance under Title IV of the Higher Education Act of 1965, including the Pell Grant and others, Agent Orange Settlement Payments to Veterans, payments under the Civil Liberties Act of 1988, and payments under the AmeriCorps Program.

Benefits received under the SNAP/TANF Program, or benefits received under the National School Lunch and Child Nutrition Acts are other examples of income that must not be reported. Benefits received under the Federal Child Care and Development Block Grant (State Child Care Assistance Program) are not to be reported.

In addition, the value of in-kind compensation allowances, such as military base housing or other subsidized housing, medical, and dental services, are not considered as income.

*Q: Are educational grants and/or scholarships considered as income?*

A: Educational grants and/or scholarships are considered as income only when a portion of the grant/scholarship is designated as being for the purpose of other than educational needs. For example, a scholarship/grant intended to help meet living expenses would be considered income.

*Q: If a household receives a loan, such as a bank loan, is the amount of the loan considered income?*

A: No. Loans are not considered as earned income since these funds are temporarily available

and must be repaid.

## Income to be Reported

*Q: What types of income are to be reported on the application?*

A: Any cash income received such as wages, salary, commissions, unemployment, child support, alimony, strike benefits, social security, pensions, retirement, disability payments, and earnings from self-employment must be reported on the application form. See Section D.1 for a complete listing of the types of income to be reported.

*Q: Does social security income received by children need to be counted as income?*

A: Yes. Social security income would be considered more than incidental child's income and would need to be considered part of the household's income.

## Military Families

*Q: Are military benefits included as part of a household's income?*

A: All cash income or payments a household receives must be considered as income. However, the value of benefits other than cash, such as military base housing, is not considered as income. Certain military pay such as FSSA, combat pay and Deployment Extension Incentive Pay (DEIP) are excluded.

*Q: What do I do when a parent is serving in the military overseas?*

A: In determining eligibility, the person overseas is counted as a member of the family, only the income he/she sends to the family is included in the family's income.

*Q: Are Family Subsistence Supplemental Allowances (FSSA) payments counted as income?*

A: Certain low-income service members and their families receive a family assistance allowance each month so they will not have to rely on food stamps. These payments, identified as "FSSA" on the Leave and Earning Statements for armed forces employees, are NOT to be counted as income for households applying for free or reduced price meals.

## Self-Employed Persons

*Q: How is income determined for self-employed persons?*

A: Farmers: Income for self-employed farmers is calculated by subtracting operating expenses from gross receipts. A farmer is anyone who operates a farm as an owner or renter.

Operating expenses include cost of feed, fertilizer, seed and other farming supplies, cash wages paid to employees, depreciation charges, cash rent, and interest on farm mortgages, farm building repairs, farm taxes (but not State and Federal income taxes).

Gross receipts include the value of all products sold, money received from the rental of farm land, buildings and equipment to others, and other receipts.

Other Businesspersons: Income from self-employed businesspersons is also figured by subtracting business expenses from gross receipts. Business refers to a professional enterprise or partnership.

Deductible business expenses include cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal Federal, State, or local income taxes).

Gross receipts include the income from goods sold or services rendered by the business and other receipts.

*Q: In a household where there are wage earners and self-employed adults, can the income of the wage earners be offset by the business losses of the self-employed adults?*

A: No. The wage earners' income must be listed on the application. If the self-employed persons' income is negative, it is considered as "zero" income.

#### Seasonal Workers

*Q: How is income for seasonal workers who have income that fluctuates and is usually higher in some months than in other months?*

A: The household may project its annual rate of income and report this amount as its current income. If the prior year's income provides an accurate reflection of the household's current annual rate of income, the prior year may be used as a basis for the projected annual rate of income.

#### SNAP/TANF/ USDA Food Assistance Benefits

*Q: How is a determination made for households reporting a SNAP/TANF case number or commodity assistance and income?*

A: The SNAP/TANF/USDA Food Assistance Benefit automatically qualifies the children on the application for free meals. These households do not need to report income.

#### Student Income

*Q: Does the income a student earns have to be listed on the application?*

A: The earnings of a student who is a full-time employee and contributes to the household's resources must be listed on the application. However, occasional earnings such as from paper routes or baby-sitting generally do not significantly affect the household's level of income and should not be listed on the application.

#### Temporary Loss of Income

*Q: What do I do if a household suffers a temporary loss of income?*

A: If the household's income falls within the eligibility criteria, you may grant approval for free or reduced-price benefits. The household must submit a new application to reflect the change. See Section D.11.

#### Zero Income

*Q: What if a household has no current income and reports zero on the application?*

A: The eligibility determination must be made based on the information provided on a complete application. See section D.12.

## VA Educational Benefits

*Q: Are VA educational benefits considered income?*

A: If a student is attending college under the GI bill, he/she receives a straight payment per month. USDA policy states that if funds are not specifically identified for educational purposes the funds must be considered as income.

## Extended Families

*Q: If a student is living with both their parents and grandparents, whose income must be counted?*

A: All of those living as an economic unit need to be counted as part of the family and all income counted toward the household's total income.

*Q: Does a person's income need to be counted if he/she is residing with or married to the mother/father of the child (ren) but neither adopted them nor taken any financial responsibility for them?*

A: Yes. Whether they are married or not, they still reside as one household and all income into the unit must be considered.

## D.20(c) Household Size

### Boarding School Student

*Q: Is a student in a boarding school considered to be a household of one?*

A: No. When a residential facility has been classified by the State Agency as a boarding school, the size and income of the student's household is used in determining eligibility.

### Student Living Alone

*Q: How is eligibility determined for a teenager attending school who lives alone and is totally responsible for himself/herself?*

A: A student, who does not reside as a member of a larger household but as a single economic unit, is considered a household of one. Earned income and money from all other sources are considered income. A Social Security number is not required on the income application of a student under 21 years of age who lives alone and completes his/her own application.

### Student Living with One Parent, Relatives, or Friends

*Q: If a foster child is considered a one-member household, is a child who resides with relatives or others, considered a one-member household?*

A: In cases where no specific welfare agency or court is legally responsible for the child; or where the child is living with at least one natural parent, relatives or others, the child shall be considered a member of the household with whom he/she resides, and the size and income of that household shall be used to determine the child's eligibility.

### Citizens of Other Countries

*Q: Are foreign exchange students, refugees, aliens, and citizens of other countries and/or their dependent children eligible for free or reduced-price benefits?*

A: Eligibility to receive free or reduced-price benefits is based on the same household size and income criteria for all students regardless of U.S. citizenship.

#### Foster Child

*Q: What factors are considered in determining eligibility for free and reduced-price benefits for a foster child?*

A: A foster child is categorically eligible. The parent needs to check the foster child box on the application.

*Q: An adult is a legal guardian for a child. Guardians have legal custody of a child, but they must also report to the court regularly, and are subject to oversight by the court. Shouldn't a child who has a guardian be considered a foster child?*

A: Legal custody/guardianship is the criterion on which our definition of "foster child" rests. Even though a guardian is somewhat like a foster parent, if the guardian has legal responsibility for the child, the child is not a foster child. Legal guardians are considered parents. All children in the household count as family members and all income must be reported.

*Q: Is there any means by which I can validate a child's status as a foster child?*

A: Confirmation of the welfare agency's legal responsibility for the foster child may be requested from the Social Service Agency responsible for placing the children.

#### Subsidized Adoption

*Q: When a child is in a household through a subsidized adoption, is the child considered a member of the household and is the income that the household receives for the child's expenses considered as household income?*

A: The sponsor must determine in what context the term "subsidized adoption" refers. In most subsidized adoption situations, the child is legally adopted by the household and should be considered as an additional member of the household, with the income for the child's needs counted in the household's total income. However, there have been some instances in which the term "subsidized adoption" has been used to refer to a legal arrangement in which the child is not considered to be in the custody of any household but is under the legal guardianship of the court. In this case, the eligibility determination should treat the child as a foster child.

#### Institutionalized Child

*Q: What is an institutionalized child?*

A: An institutionalized child is considered a family of one, who resides in a residential-type facility which the State has determined is not a boarding school. An institutionalized child's income is the cash earned by or directly available to the child.

#### Student Attending an Institution

*Q: Is a student who attends, but does not reside in an institution considered a household of one as is an institutionalized child?*

A: No. A student who attends but does not reside in an institution is considered a member of

the household in which he/she resides.

#### Students Away at School

*Q: In determining household size, are students who are away at school, considered part of the household?*

A: Students who are away at school and who receive their primary support from the family, such as students who attend boarding schools or institutions of higher education, must be counted as a member of the household. Any income they receive must be counted toward household income.

#### Student Living Within a TANF or SNAP (Food Stamp) Assistance Unit

*Q: Are children who do not receive TANF or Food Stamp benefits but reside in a household where other children receive these benefits eligible for free meals?*

A: Yes.

#### Two Families In One Household

*Q: How do I determine what constitutes a household when two or more families live together?*

A: Local school officials, keeping in mind the definitions of "household" and "economic unit," must use their best judgment and the facts available in these situations. The following examples are provided as guidance:

Situation 1: A parent, employed as a housekeeper in the household, has a school age child. The employer furnishes lodging and subsistence for the parent and child, plus a salary. The household and employer do not share expenses. In this situation, two households exist. The lodging and subsistence received by the housekeeper are treated as in-kind benefits and wage earned is considered as income. The in-kind value is not included in the income calculations.

Situation 2: A brother and sister, each with school age children, reside with their parents and each pays a lodging and subsistence to their parents. No other income or expenses are shared. In this situation three households would exist. The brother and his children would be one, the sister and her children would be another and the parents of the brother and sister constitute a third household.

Because of these varying situations, these determinations must be made on a case by case basis by local officials.

*Q: How would I count a student who is living with grandparents?*

A: The student would be considered a member of the household with whom he/she resides and the size and total income for that household would be used to determine eligibility.

#### Family Living Apart

*Q: Members of a household become temporarily separated when the father moves to another town to take a temporary job. He intends to rejoin the rest of the household when the job ends in a few months. During his temporary absence he has also taken one of the children, who is enrolled in the school in the new town. How should the application for the child who has accompanied the father be completed with respect to household composition and income?*

A: As family members are living apart temporarily, the application for each part of the household—the part that stayed, and the part that is temporarily living apart—should be completed the same way (unless some of the children are on SNAP or TANF). Each

application should show all household members for the full household, and income from all sources.

## D.20 (d) Program Operations

### Maintaining Income Applications

*Q: How should I organize the income applications?*

A: Applications should be divided by category (free, reduced-price and denied) and filed alphabetically for easy access. The applications must be retrievable by school. Denied applications must be maintained on file.

*Q: How long do I have to keep the applications?*

A: Applications must be kept on file for three years after the end of the fiscal year to which they pertain. Sponsors that have implemented a Special Provision must maintain applications from the base year for the duration of time that the sponsor claims meals based on base year information plus three years after the end of the fiscal year to which they pertain.

*Q: How do I keep track of who is eligible for meal benefits?*

A: Prepare a list (master list, roster) of enrolled students, noting their eligibility status and include enrollment or drop dates. You may list only eligible students or the eligibility status of each enrolled student.

*Q: In a computerized operation where the computer generates the determination, does the determining official have to sign or initial each application?*

A: No. However, the computer system must be able to capture the original date of approval and to update the status of applications to account for transfers, withdrawals, terminations and other changes. The computer system must also provide a letter or email notification to parents "signed" (even if it is electronic) and dated by the person who approved the application.

### Counting and Collection Procedure

*Q: How do I sell tickets without discrimination?*

A: Several methods can be employed to collect payments without discrimination; for example:

- 1) Have students pay for their meals in the office, any time of the day, so there is an opportunity for privacy.
- 2) Households pay in advance, by mail, on-line or in person at the school office.

*Q: How do I count meals by type without discrimination?*

A: Some possible methods include:

- 1) Prepare a check-off list, including names of all students and adults participating. Names are checked at the end of the serving line. Each day the list is compared with a list of students eligible for free or reduced-price meals.
- 2) Utilize an automated system to count meals served.

## Disclosure of Free and Reduced-Price Eligibility Information

*Q: Who may have access to the information provided on the applications?*

A: In order to prevent overt identification of free and reduced-price meal recipients, access to the information provided by households on free and reduced-price applications is limited. The names and eligibility status may be disclosed without consent to persons directly connected with the administration or enforcement of the following programs:

1. FEDERAL education programs, such as Title I, the National Assessment of Educational Progress and Carl Perkins Grants.
2. STATE health or STATE education programs provided the programs are administered by the State agency or a Local Education Agency. Representatives of State or Local Education Agencies evaluating the results and compliance with student assessment programs would be allowed only to the extent that the assessment program was established at the state, not the local level.
3. FEDERAL, STATE, and LOCAL means tested nutrition programs with eligibility standards comparable to the National School Lunch Program (such as the Food Stamp Program, or a State, or local nutrition program).

All eligibility information obtained on the application or through direct certification or verification may be disclosed without consent to:

1. Persons directly connected with the administration or enforcement of programs authorized under the National School Lunch Act (NSLA) or the Child Nutrition Act of 1966 (CNA). This includes not only the National School Lunch, Breakfast, and Milk programs but also includes the Child and Adult Care Food Program, Summer Food Service Program, After School Snack Program and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Program eligibility information collected for any one of the Child Nutrition Programs may be shared with another Child Nutrition Program, even if the programs are sponsored by a different agency.
2. The Comptroller General of the United States for the purposes of audit and examination.
3. Federal, State, and local law enforcement officials investigating alleged violations of any of the programs under the NSLA and CNA or investigating violations of any of the programs authorized to have access to names and eligibility status.

The decision to release the information rests with local officials. Composite information or simple totals may be released to others.

Sponsors that use free or reduced-price meal eligibility for a waiver or reduction in other educational or athletic fees must have a signed disclosure waiver for each child prior to using the information. A prototype of this form is available through our office.

*Q: May a non-custodial parent obtain information on the application?*

A: The free and reduced-price meal application information may not be released to anyone including a non-custodial parent for non-program purposes.

#### Foreign Language Applications

Q: *Is it necessary to provide information and other materials such as the application and letter to households in languages other than English?*

A: A reasonable amount of effort should be devoted to communicating program information to all persons with a limited or non-English communicating capability. In addition, sponsors should send appropriate non-English language letters and application forms to households if 5 percent or 500, whichever is less, of the students enrolled in participating schools come from families belonging to the same minority language group and have limited or non-English communicating capability.

Foreign language translations of application materials are available on the USDA Food and Nutrition Service web site: <http://www.fns.usda.gov/school-meals/translated-applications>

#### Family Requests Lower Level of Benefits

Q: What do I do if a child is eligible for free meals, but the household wants to pay the reduced price?

A: The school should respect the family's wishes and allow the child to pay the reduced-price charge. The application should correctly reflect that the child is eligible for free meals. However, the school should note on the application that the family has elected to pay the reduced-price charge. The meals served to such a child must be claimed for the reduced-price reimbursement since the school received the reduced-price payment from the household.

#### Offering and Pricing Meals and Milk

Q: *What should I charge for a reduced-price meal?*

A: You cannot charge more than 40 cents for lunch, 30 cents for breakfast, or 15 cents for after school snack, and the reduced price must be less than the full price of lunch or breakfast. The reduced-price charge may be varied within the maximum.

Q: *If I offer a choice of USDA lunches at different prices, must this same option be available to free and reduced-price meal recipients?*

A: Yes. In an effort to increase participation, schools may offer students a choice of USDA lunches. Occasionally, one lunch may be more expensive because of a special meal item. However, free and reduced-price recipients must be able to choose either meal with no additional charge.

Q: *Am I required to offer both free and reduced-price meals?*

A: Yes. Under the National School Lunch and Breakfast Programs, sponsors must make both free and reduced-price meals available to those students who qualify for such meals.

#### Transfers

Q: *Can I serve free and reduced-price meals to eligible students who transfer from another school?*

A: Program eligibility remains the same when a student transfers from one school to another. With documentation, eligibility is valid for the entire school year, even if the child has transferred to a different school district. When a student transfers to a different school district, the sponsor making the initial eligibility determination may disclose eligibility information to the student's new sponsor. This may only be done if the transfer occurs during the school year. The new school is still responsible for the accuracy of the original determination.

#### D.21 Verification of Eligibility for School Meals

Verification is confirmation of eligibility for free and reduced-price meals under the National School Lunch program or School Breakfast Program. The verification process must be separate from the approval process. Verification information may be provided at the time application is made for free and reduced-price meal benefits, but the application must be initially approved or denied based on the information supplied on the application.

#### D.22 Exemptions from Verification

Certain sponsors are exempt from the verification requirements. These include residential child care agencies, except for applications for any day students attending the institution, schools in which all students are served with no separate charge for food service and no free and reduced-price reimbursement is claimed, and households which submit a Meal Benefit Notice.

#### D.23 Confirmation Review Before Verification

Each application selected for verification must be re-evaluated by a different person than the person who made the original determination. Once the required confirmation review is completed, the sponsor may proceed with verification if the initial determination was correct. If the confirmation review indicates the new eligibility status is to the household's benefit, the sponsor should make the changes as soon as possible and proceed with verification. If the confirmation review shows that there should be a decrease in benefits. The sponsor proceeds with and completes verification before any notification of a new eligibility status is given.

#### D.24 Household Notification of Selection

When a household is selected for verification and is required by the sponsor to submit documents or other forms of evidence to document eligibility, the household must be sent a notice or letter informing them of their selection and of the types of information acceptable to the sponsor. Sponsors must provide households a means of asking questions about verification by telephone without the household incurring a charge for the call. When the sponsor uses agency records to verify eligibility, the letter or notice of selection is not required. A prototype letter to households selected for verification is available through our office.

#### D.25 Verification of Categorical Eligibility

The Meal Benefit Notice, released by the North Dakota Department of Human Services to categorically eligible students, is also used as a verification document. To verify the USDA food assistance form of categorical eligibility, the Tribal food distribution office may be contacted.

#### D.26 Number of Applications to Verify

Federal regulations require that sponsors verify 3% of the approved applications on file as of October 1 each school year. No more or no less than 3%, round up all fractions. Verification may begin any time after approval. The regulations require that, prior to any verification; a complete application must be approved or denied based on the information on the application.

Verification must be completed by November 15.

#### D.27 Verification Options

There are two verification methods:

(1) Focused-Random sampling - requires, at a minimum the selection of 3% selected randomly from the error-prone applications. The selection of the applications must be those that report an income within a certain dollar amount of the income guidelines (\$100/month or \$1,200 per year). The method of selecting applications must be documented. At least one application must be verified. If there are not enough error-prone applications to make up the minimum number, additional applications must be chosen at random for verification. Flagging error-prone applications during the initial determination will make it easier to identify the sample at verification time.

(2) Alternate Sample – Sponsors with a non-response rate of less than 20% on the previous year verification sample may choose the 3% option or the 1% PLUS option.

One percent PLUS option: Verify 1% of income applications and ½ percent of categorical applications on file as October 1. Select from error-prone income applications first, select additional applications at random if necessary. Select ½ percent of categorical applications. Please call NDDPI for assistance with this option if you believe your school may qualify.

Sponsors may no longer verify more than 3% of the applications.

The sponsor must verify all questionable applications (for cause). However, any verification done “for cause” is in addition to the required sample.

#### D.28 Verification Documents

Verification documentation can be from any point in time between the month prior to application and the time the household is required to provide income documentation. Acceptable verification documents are listed for the following forms of income:

##### EARNINGS/WAGES/SALARY FOR EACH JOB:

- Current paycheck stub that shows how often it is received-OR-
- Signed letter from employer stating gross wages paid and how often they are paid

##### SELF EMPLOYED PERSONS (INCLUDING FARMERS)

- Most recent copy of federal tax form 1040-OR-
- If previous year tax form is not indicative of current income status, business or farming papers such as ledger or tax books may be used

##### SOCIAL SECURITY/PENSIONS/RETIREMENT

- Social Security retirement benefit letter-OR-
- Statement of benefits received-OR-
- Pension notice

##### UNEMPLOYMENT COMPENSATION/DISABILITY OR WORKER'S COMPENSATION

- Notice of eligibility from State Unemployment Office-OR-
- Check stub-OR-
- Letter from Worker's Compensation

## SNAP OR TANF BENEFITS, FDPIR ASSISTANCE

- Benefit letter from agency

## CHILD SUPPORT/ALIMONY

- Court decree, agreement or copies of checks received.

## ALL OTHER INCOME

- Information or papers that shows the amount of income received, how often it is received, and the date received

If the household is unable to confirm its eligibility or refuses to cooperate in verification efforts, benefits must be terminated in accordance with the hearing procedures outlined in the sponsor's free and reduced-price policy statement.

### D.29 Notice of Adverse Action

All households for whom benefits are to be reduced or terminated must be given ten calendar days' written advance notice of the change.

The first day of the advance notice period is the day the notice is sent.

The notice must advise the household of the following:

- the change in benefits,
- the reasons for the change,
- that an appeal must be filed within the ten-day advance notice period to ensure continued benefits while awaiting a hearing and decision,
- the instructions on how to appeal,
- that the household may reapply for benefits at any time during the school year, and
- that Food Stamp or TANF households may submit an application containing household names and income information and provide written evidence of current household income and the social security numbers of adult household members.

### D.30 Completion of Verification

Verification of the selected/chosen sample size must be completed by November 15 of each year. Information must be recorded on the on-line Verification Summary Report-NSLP form and maintained on file at the sponsor.

Verification of an individual application is complete when a household's eligibility for the level of benefits for which it was approved is:

- confirmed, or
- changed to a higher level of benefit, or
- a letter of adverse action has been sent informing the household that benefits will be reduced, or
- a letter of adverse action has been sent informing the household that benefits will be terminated.

### D.31 Benefits During Appeal of Verification Results

Verification of a household's income eligibility for free or reduced-price meals must result in one of the following:

- No change in benefit level - The household's current documentation supports the level of benefits for which the household has been approved.

- Reduction in benefit level - The household's current documentation identifies income too high for the level of benefits for which the child has been approved. Therefore, the household's eligibility must be changed from free to reduced-price or from reduced-price to paid.
- Increase in benefit level - The household's current documentation qualifies the household for free meals rather than reduced-price meals. Therefore, the household's eligibility must be changed from reduced-price to free meals.
- Termination of benefits - Free and reduced-price benefits must be terminated for households that do not respond to verification efforts or whose current documentation does not support eligibility for either free or reduced-price meals.

If verification results in a change in benefit level or termination, the change must be extended to all children in the household who were determined eligible by information that no longer supports the benefit level.

#### D.32 Hearing Procedure

The hearing procedure in the sponsor's free and reduced-price policy statement must be followed. The household may request a conference prior to a formal hearing.

The hearing official must be an individual who was not involved in the approval or verification process.

#### D.33 Households that Reapply for Program Benefits

Households affected by a reduction or termination of benefits may reapply for benefits at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, it should be required to submit income documentation or proof of participation in the Food Stamp Program, TANF Program or FDPIR Assistance Program (such as a case number) at the time of reapplication. The sponsor may verify the household's eligibility prior to approval. These are not considered new applications.

#### D.34 Reviewing the Household's Income Verification Information

When the requested verification is submitted by the selected household, the information and/or documents must be reviewed to determine their adequacy in supporting information listed on the application.

1. If the requested information confirms eligibility, the household's benefits would continue and the verification process is complete. Original documents submitted by the household should be returned. The sponsor officials must attach a copy of the document to the application or note the source, date and relevant content of the document on the application. Information added to the application from verification documents should be dated and initialed by the sponsor official.
2. If the requested information does not confirm eligibility, or if the information cannot be obtained by the household, school officials may 1) terminate benefits, 2) request the household to designate a collateral contact for confirmation of eligibility, 3) request a conference to discuss the household's application.

Should these efforts fail to confirm eligibility, the household's eligibility to receive free or

reduced-price benefits may be reduced or terminated in accordance with the prescribed procedure. Note on the application the efforts made, inadequacy of confirmation information, date, and any other pertinent information that may be needed in the event of an appeal.

### D.35 Special Situations

#### D.35 (a) Households That Do Not Apply

School officials may complete an application and determine a student eligible for benefits based on the information available. Such an application need not be considered for verification. See section D.13.

#### D.35 (b) Foster Children

Foster children are wards of a court or welfare agency placed in residence in a private household and are considered categorically eligible and therefore, not subject to verification.

#### D.35(c) Zero Income

Households with zero income can be requested to submit a written statement of how the household pays for food, housing, clothing, with no income or, a collateral contact may be used to confirm the household's circumstances.

#### D.35 (d) Collateral Contacts

Whenever written evidence is insufficient to confirm eligibility, a school may require collateral contacts.

A collateral contact is confirmation of a household's circumstances by a person outside of the household. If the verifying official designates a collateral contact, the contact cannot be made without providing notice to the household. At the time of this notice, the household shall be informed that it may consent to the contact or provide acceptable verification in another form. If the household refuses to choose one of these options, its eligibility shall be terminated in accordance with normal procedures for failure to cooperate with verification efforts.

#### D.35 (e) School Conference

A school conference is a meeting between the school official and an adult member or members of the household who have knowledge of the household's circumstances. The school official must document the discussion and information.

#### D.35 (f) Refusal to Cooperate

Verification is based on the premise that it is the household's responsibility to provide complete and timely information to support their application for free and reduced-price meal benefits. Households who refuse to cooperate with verification efforts must be terminated from the program. School officials, however, are encouraged to give applicants every opportunity to provide the needed verification information or clarification so that benefits can be continued to students.

### D.36 Reduction or Termination of Benefits

If the sponsor's verification efforts fail to confirm eligibility for free or reduced-price meal benefits, or if the household fails to cooperate with the verification efforts, the following actions must be taken:

- Prior to actual reduction or termination, ten calendar days advance notification must be

provided to households that are to receive a reduction or termination of benefits.

- The first day of the ten-calendar day advance notice period must be the day the notice is sent to the household
  - the notice must advise the household of the following:
    - change in benefits
    - reason for the change
    - the right of appeal
    - when the appeal must be filed to ensure continued benefits while awaiting a hearing and decision
    - how to appeal
    - that the household may reapply at any time during the school year

Sponsors must document and keep on file the reasons for the termination or reduction of benefits. Households which appeal the reduction or termination of benefits within the ten-calendar day advance notice period must continue to receive benefits until the decision of the hearing official is made.

The hearing procedure contained in the sponsor's approved free and reduced-price policy statement must be followed.

Sponsor claims for reimbursement shall reflect any change in eligibility status beginning with the date of the change.

#### D.37 Verification Records

Sponsors must keep a full record of how applications were verified, the dates notices were sent, notes on any contacts made, the results of verification, the reasons for any denial or change of eligibility and the signature of the verifying official. This information may be needed in case of appeal.

#### D.38 Reporting Verification Information

Sponsors are required to submit verification summary reports to the State agency. Sponsors must collect and summarize three data points for each verified application – the number of students approved for benefits on the application, the original basis for approval of the application, and the status of the application after verification.

Districts must complete their verification by November 15 of each school year. The report is due to the State agency by December 15 of the school year.

#### D.39 QUESTIONS AND ANSWERS -- Verification

*Q: May I begin verification before October 1?*

A: Although the required sample size is based on the number of approved applications on file on October 1, verification may begin before this date. However, on October 1, the actual number of applications on file must be determined. The sample size should be increased if the total number of approved applications on file exceeds the early estimate.

*Q: What if a child who is selected for verification transfers out of the school district before we can verify his or her information?*

A: To meet the minimum verification requirements, you must select a new application.

*Q: What if I ask another agency for records for verification and the agency does not respond before November 15?*

A: You must complete verification by November 15, regardless of obstacles. To give other agencies time to respond, request agency records in September or early October and then follow up with a telephone call to the agency in late October. If you still receive no response, be prepared to send a request for documents to each household on November 1.

*Q: Should I verify current eligibility or eligibility at the time of application?*

A: School officials verifying income eligibility must allow households to provide documentation of income for any point in time between the month prior to application and the time the household is required to provide income documentation. If you are using a system of records, you may verify a recent month and verify the entire sample for the same month. If a household disputes the validity of information you have acquired through a system of record, you must give it the opportunity to produce more recent information.

*Q: What items must appear on the documents submitted to confirm income?*

A: Although there are no required items of information, written evidence should contain at least the name of the household member, the income received, the frequency it is received and the date.

*Q: If an applicant is self-employed, can he or she use the previous year's tax return as written evidence of the current year's projected income.*

A: Yes. Only the self-employed have this option.

*Q: If an applicant is a farmer who is reliant on agriculture-related income and he or she is just beginning to sell current year's crops, what written evidence can I request?*

A: You may ask for last year's records or financial ledgers or tax return to estimate the current year's income.

*Q: How is overtime income counted for the purposes of verification?*

A: The school official should work with the household to determine whether the overtime for the month being verified is representative of overtime received in other months. If the overtime is a one-time or sporadic source of income, income should be calculated based on the regular monthly income without overtime.

*Q: What do I do if a household refuses to submit verification information?*

A: Households that refuse to cooperate are subject to benefit termination. You must provide applicants every opportunity to provide information, perhaps by offering to photocopy important documents that the applicant does not want to relinquish, by getting an explanation of why the household cannot submit documents or getting the name of someone who can give collateral information.

*Q: What if the determining official suspects that there are other sources of income?*

A: Any application that contains questionable information must be verified as soon as possible.

Q: *If a household disagrees with the verification findings, what must I do?*

A: The household may appeal the change of status in keeping with the sponsor hearing procedure. Appealing households will continue to receive benefits if they appeal within a ten-day advance notice period. See Section D. 29

## E. ON-SITE ASSISTANCE

### E.1 Technical Assistance

State Agency staff members are continually available to provide technical assistance to sponsors. Sponsor personnel may contact the State Agency by telephone (701-328-2294 or toll-free 1-888-338-3663), e-mail (degeland@nd.gov) or by written correspondence (600 E. Boulevard Ave. Dept. 201, Bismarck, ND 58505-0440) to request assistance.

If time and funding allow, on-site technical assistance can be provided at the request of a sponsor. Assistance can be requested in any area related to the administration or operation of the foodservice program.

On occasion, the State Agency determines that a sponsor would benefit from special technical assistance and will initiate a visit to a sponsor.

#### E.1 (a) Communications

Information regarding program operations, new legislation, promotions, and training opportunities is sent to sponsors via e-mail once a month. These brief messages are designed to provide pertinent information to program managers in a timely manner.

#### E.1 (b) Newsletters

The State Agency publishes an electronic newsfeed on the website in three areas: *Administrative Update*, which provide program information and technical assistance. *Directions* is provided to school foodservice personnel and authorized representatives, and *Roundup* is provided to child and adult care centers and sponsors of child care homes.

#### E.1(c) Resources

The State Agency maintains an extensive library of books, training videos and other program aides. Items are available for loan through our office in the following areas of school foodservice operations:

- Cost Control
- Foodservice Equipment
- Healthy School Meals
- Marketing and Promotions
- Menu Planning
- Nutrition Education
- Procurement
- Sanitation
- Food Buying Guide for Child Nutrition Programs
- Creditable Foods Guide for USDA School Nutrition Programs

Contact our office for resource lending information.

#### E.1 (d) Web Site

The Child Nutrition and Food Distribution web site at <https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/> contains current information on new or proposed regulatory requirements, guidance on program issues, printable versions of commonly used forms, newsletters, information on upcoming training opportunities and links to additional child nutrition web sites.

#### E.2 Reviews

As required by federal regulations, the State Agency conducts on-site reviews of program operations. The sponsor is contacted to schedule a date for the review. Reviews are generally scheduled once every three years.

The on-site review begins with an entrance conference with the authorized representative or designee and concludes with an exit conference. A follow-up review letter is sent to the authorized representative highlighting program strengths and noting any needed corrective action. On-site reviews generally include monitoring under the Coordinated Review Effort (CRE), the School Meals Service (SMS) Review and an Administrative Review. The FFVP is also reviewed if the school participates in FFVP.

##### E.2 (a) Administrative Review (AR)

The AR is a plan to achieve better program management in the NSLP. The objectives of AR are:

- to assess current lunch program management and accountability,
- to encourage improvements in program management,
- to monitor for the effective use of federal funds, and
- to protect the nutritional integrity of meals served under the program.

#### Performance Standards

The on-site AR review is mandated by federal program regulations and requires state agencies to review two performance standards.

Performance Standard 1 All free, reduced-price and paid lunches claimed for reimbursement are served only to children eligible for free, reduced-price and paid lunches, respectively; and are counted, recorded, and claimed through a system which consistently yields correct claims.  
Performance Standard 2 Lunches claimed for reimbursement contain food items/ components as required by program regulations.

#### Review Thresholds

The USDA has established review thresholds in the AR. If a sponsor exceeds the review threshold for one or both performance standards, a second AR review before December 31 of the next school year may be scheduled.

#### Fiscal Action

Performance standard errors which result in an overclaim of USDA funds require calculation of the overclaim dollar amount. An overclaim exceeding \$600.00 must be recovered from the sponsor. Refer to the Financial Issues chapter, Section C.8 and 9.

#### Review Cycle

All sponsors participating in the NSLP must be monitored at least once during each three-year cycle however in the 2019-20 school year, NDDPI Child Nutrition has received a waiver from USDA to conduct reviews of NSLP every 5 years.

#### Review Records

The records and documents which the sponsor should have readily available for the review are:

- an up-to-date file, by school, of all approved and denied
- free and reduced-price meal applications,
- a master list or roster of each enrolled student eligible for free or reduced-price meals,
- an approved method of collecting student meal payments,
- daily records and source documents to support the claim for reimbursement,
- documentation that an edit check is conducted for each school, each month, by eligibility category,
- documentation that each school's meal counting and claiming procedures were monitored on site by the sponsor prior to February 1, and
- menus and productions records for each school.

#### E.2 (b) School Meals Service Review

In conjunction with the regular Administrative Review which occurs every three years, ND Child Nutrition Program staff monitors school meals for compliance with the nutrient standards and Dietary Guidelines.

Reviewers choose a school week at random and request detailed information including menu, number of students served, and types and amounts of food prepared. The reviewer then completes a computerized nutrient analysis of that week's menus which gives detailed information on the calorie, fat and nutrient levels of meals served. The school's values are then compared to the nutrient standards. If it is found that meals do not meet the standards, an improvement plan is developed with the input of school nutrition personnel. The nutrition personnel will make changes and respond back to Program staff about the changes that have been made.

#### E.2(c) Administrative Review

The objective of an Administrative Review by the State Agency staff is to provide guidance and technical assistance to sponsor foodservice programs. Areas covered during an administrative review include:

- Menu Planning (including breakfast and afterschool snacks if offered)
- Implementation of the Dietary Guidelines for Americans and Nutrient Standards
- Offer versus Serve
- Portion Sizes
- Food Purchasing Practices (Procurement)
- Food Production Techniques
- Competitive Foods and Smart Snacks
- Local Wellness Policy
- Food Storage Practices
- Sanitation and Safety Issues and HACCP
- Student and Parent Involvement
- Civil Rights
- Recordkeeping Requirements

- Free and Reduced-price Meal Application Process
- Verification
- Meal Counting/Claim Preparation
- Financial Management

### E.3 Training/Professional Growth

#### E.3 (a) Professional Standards for Foodservice Personnel

School foodservice personnel are required to meet certain education and experience criteria and take continuing education. The Healthy, Hunger-Free Kids Act of 2010 required the USDA to create professional standards for State and local school nutrition program personnel. The goal of the training and hiring standards is to ensure the success of the NSLP and SBP. These standards assist schools in recruiting, hiring, training and retaining qualified school nutrition staff; enhance the image of school nutrition professionals and their influence in the community; and build skills and empower staff to lead and efficiently operate school nutrition programs.

Food Service Directors need 12 hours of training per year. Managers need 10 hours of training per year and other food service staff need 6 hours of training per year. The State Agency provides Back-to-School Workshops in the summer covering many different topics. Schools can also offer training opportunities to their staff. Continuing education can be recorded in 15-minute intervals. The Institute of Child Nutrition, (formally known as NFSMI) has developed several training videos available on-line at: [www.theicn.org](http://www.theicn.org)

#### E.3 (b) Professional Organizations

The School Nutrition Association (SNA) and the North Dakota School Nutrition Association (NDSNA) are professional organizations specifically for school foodservice professionals. These organizations provide professional growth opportunities including newsletter and journal publications, workshops and conferences. Membership dues in the SNA/NDSNA organizations, among others, are an allowable foodservice expenditure.

### E.4 Nutrition Education

Nutrition education in schools is crucial to help build good eating habits by teaching the fundamentals of nutrition to children, parents, educators and foodservice personnel.

Resources and information to help sponsors provide nutrition education are available through the State Agency.

The major goals of nutrition education are:

- To encourage good eating habits and to teach children the relationship between food and health.
- To train foodservice personnel in nutrition and foodservice management and to encourage the use of the cafeteria as an environment for learning about food and nutrition.
- To instruct educators in nutrition education and in the use of the cafeteria as a learning laboratory.
- To develop appropriate educational materials and curricula.

## RESOURCES FOR SCHOOL FOODSERVICE

The following web-sites provide a wealth of information for school foodservice programs for all

areas of program operations. Items may be downloaded or ordered:

Child Nutrition and Food Distribution

<https://www.nd.gov/dpi/Administrators/ChildNutritionFoodDistribution/>

United States Department of Agriculture Food and Nutrition Services

<http://www.fns.usda.gov/>

Healthy School Meals Resource System

<https://www.fns.usda.gov/healthy-meals-resource-system-hmrs>

Institute of Child Nutrition

[www.theicn.org](http://www.theicn.org)

Team Nutrition

<http://www.fns.usda.gov/tn>

School Nutrition Association

[www.schoolnutrition.org](http://www.schoolnutrition.org)

ND School Nutrition Association

[www.northdakotasna.com](http://www.northdakotasna.com)

Food and Nutrition Information Center

<http://fnic.nal.usda.gov/>

Academy of Nutrition and Dietetics

<http://www.eatright.org/>

National Dairy Council

<http://www.nationaldairyCouncil.org/Pages/Home.aspx>

## Acronyms

ADP	=	Average Daily Participation
AR	=	Administrative Review
ASP	=	After School Snack Program
ANC	=	Annual National Conference of SNA

CACFP	=	Child and Adult Care Food Program
CEP	=	Community Eligibility Option
CFR	=	Code of Federal Regulations
CFDA	=	Catalog of Federal Domestic Assistance
CN	=	Child Nutrition
DGA	=	Dietary Guidelines for Americans
DoD Fresh	=	Department of Defense fresh produce program
EBT	=	Electronic Benefits Transfer
F	=	Fahrenheit
FDP	=	Food Distribution Program
FDPIR	=	Food Distribution Program on Indian Reservations
FFVP	=	Fresh Fruit and Vegetable Program
FNP	=	Food and Nutrition Program
FNS	=	Food and Nutrition Service
FSMC	=	Food Service Management Company
ICN	=	Institute of Child Nutrition
LEA	=	Local Education Agency
LFSW	=	Lead Food Service Worker
NDCC	=	North Dakota Century Code
NDFoods	=	NDDPI Meal Claiming system and USDA foods ordering system
NDDPI	=	North Dakota Department of Public Instruction
NDSNA	=	North Dakota School Nutrition Association
NMP	=	New Meal Pattern
NSLP	=	National School Lunch Program
OMB	=	Office of Management and Budget
PAL	=	Planned Assistance Level
RDA	=	Recommended Dietary Allowance
SAN	=	Sanitation Course 8 hours required of LFSW once within 60 days of hire
SANU	=	Sanitation Update 3-hour course required every 5 years after Sanitation
SBP	=	School Breakfast Program
SFN	=	State Form Number
SFSP	=	Summer Food Service Program
SMP	=	Special Milk Program
SNA	=	School Nutrition Association
SNAP	=	Special Nutrition Assistance Program (Food Stamps)
SNB	=	Severe Need Breakfast
SSI	=	Supplemental Security Income
STARS	=	State Automated Reporting System
TANF	=	Temporary Assistance to Needy Families
TN	=	Team Nutrition
TNT	=	Team Nutrition Training
USDA	=	United States Department of Agriculture

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