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Other Operational Issues

Civil Rights

Responsibilities of School District

The district must assure that Child Nutrition Programs benefits are made available and provided to all eligible individuals without discrimination on the basis of their race, color, national origin, sex, age or disability. Students cannot be required to participate in the Child Nutrition Programs.

Civil Rights Training

Civil rights training is an annual requirement for everyone funded, in part or in whole, by Child Nutrition. To assist Local Education Agencies (LEAs) with meeting this requirement, civil rights training is available at www.squaremeals.org. LEAs must document that civil rights training was conducted. Documentation should include the date, topic, and the participants' names and signatures. TDA will check the documentation during a Coordinated Review Effort (CRE).

Regulations Regarding Civil Rights

U.S. Department of Agriculture (USDA) regulations outline each school's responsibility regarding civil rights compliance in the school nutrition programs. The following procedures are required to assure that all participating schools comply with the civil rights regulations.

- Include on forms of communication and printed program information:
 1. The statement that program benefits and services are available to all children without regard to race, color, national origin, sex, age or disability.
 2. Where a complaint may be filed, such as U. S. Department of Agriculture, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY).
- Inform parents or guardians of students, as well as local minority and grassroots organizations, of the availability of program benefits and services, the nondiscrimination policy and all significant changes in existing requirements that pertain to program eligibility and benefits. This may be done through the news release and letter to parents and application form sent home to the parents or guardians of each child enrolled.
- Display the nondiscrimination poster in a prominent place in each school but preferably not in the kitchen preparation area. USDA-approved posters are available from the Food and Nutrition Division, Texas Department of Agriculture.
- Upon request, make available to the public and to participants and potential participants, information about program requirements and the procedures for filing a complaint, in English and/or in the appropriate translation to non-English speaking persons.

- Any person alleging discrimination based on race, color, national origin, sex, age or disability has a right to file a complaint. A sample complaint form is provided at the end of this section. This form may be used or the complaint may be made in another format or verbally. **All Child Nutrition Program complaints, written or verbal, shall be accepted by the district Child Nutrition Program personnel and forwarded to the Food and Nutrition Division, Texas Department of Agriculture.**
- School districts are required to maintain the actual number of children applying for free and reduced-price meals on file for five years. Additionally, the number of students by racial/ethnic categories who have been approved and denied for free and reduced-price meals should be maintained each year. TEA currently collects this information through PEIMS; therefore, the Child Nutrition (CN) department is not responsible for collecting racial/ethnic information.

A school district's compliance with the civil rights regulations, as well as all other program regulations, will be verified during on-site administrative reviews, audits and other federal or state monitoring visits.

Nondiscrimination Policy

The nondiscrimination information that is contained each year in the letter to parents is an example of how this requirement may be met. It is as follows:

"In accordance with Federal law and United States Department of Agriculture policy, this Institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write U. S. Department of Agriculture, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer."

Nondiscrimination and Confidentiality

There must not be any discrimination against children receiving free and reduced-price meal benefits. To be in compliance, the items listed below must be followed:

- The names of children must not be published, posted, or announced in any manner or used for any purpose other than determining and verifying eligibility for free and reduced-price meals.
- The children must not be required to work for their meals.
- The children must not be required to use a separate dining room, separate serving line, or separate serving time.
- There must not be any overt identification of any of the children by use of special tokens or tickets. The school district must use the collection procedure(s) approved as part of its free and

reduced-price meal policy statement. When ordering meals for special functions (i.e. field trips, class parties, etc.) no method of overt identification can be used (students raising hands, forms sent home that identify eligibility, etc.).

- There must not be any discrimination on the basis of race, color, national origin, age, sex or disability in the application approval process, selection of applications for verification, or separation in the eating periods, seating arrangements, serving line and eating areas.

The public release and letter to parents or application for benefits must include the statement: “In accordance with Federal law and United States Department of Agriculture policy, this Institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write U. S. Department of Agriculture, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.”

Waiver of Confidentiality

A school district may provide the eligibility status of children to another agency or program when households waive their confidentiality. The school district must ensure that the household’s waiver includes the following:

- clearly informs households of the waiver’s purpose;
- authorizes release of free and reduced-price eligibility information;
- identifies how the information will be used;
- identifies who will use the information; and
- is signed by a parent or guardian. It is not the responsibility of the school district to verify the authenticity of the signature but only determine that waiver is signed by a parent or a guardian.

The district is advised to develop written policies and guidelines before taking any action. Considerations should include the following:

- the district’s definition of “agency”;
- the district’s definition of “program”;
- the agency’s or program’s method to protect against misuse of the information;
- the name of the district employee who will administer this process;
- the documentation that will be maintained at the district level and the district must maintain a copy of the waiver; and
- whether or not the district should have a written agreement with the agency or program and the terms and conditions of that agreement.

Discrimination Complaint Form

1. Your name: _____

2. Your address: _____

3. Your telephone: _____

4. List other ways to contact you: _____

5. Name and address of person(s) or organizations you are filing a complaint against: _____

6. Tell what incidents happened that made you feel you had been discriminated against and the dates they occurred.

7. State on what basis you feel discrimination exists (race, color, national origin, sex, age, or disability).

8. List names, titles, and addresses of persons who may have knowledge of the actions given in number 6 above.

Name:

Title:

Address:

a. _____

b. _____

c. _____

d. _____

9. Date _____

All complaints, written or verbal, shall be accepted by the school district and forwarded to the Food and Nutrition Division, Texas Department of Agriculture.

Federal Communications Commission (FCC) E-Rate Audits

The FCC, through the Universal Service Administrative Company (USAC), administers the E-Rate program. The USAC provides discounts to schools to obtain affordable telecommunication and Internet access. The discount rates are based on the percentage of children who are approved for free and reduced price school meals. The USAC has contracted with private firms to conduct audits of the discount rates given to schools. Specifically, auditors have requested a list of students eligible for free and reduced price meals under the NSLP who are enrolled in the selected schools, along with the meal applications for those students.

The release of information regarding students eligible for free and reduced price meals and meal applications to auditors is permitted. The Richard B. Russell National School Lunch Act (NSLA), section 9(b)(6) allows the release of certain student eligibility information to Federal education programs. USDA has worked with the FCC to ensure that their audit protocols comply with the requirements of the NSLA.

As long as the audit protocols listed below are followed, LEAs may share individual children's information with authorized FCC auditors. The applicable protocols are to:

- Compare aggregate enrollment data with aggregate free and reduced price eligibility data;
- For a small sample of eligible students, request their applications (which may include direct certification records);
- Confirm that a meal application or other documentation exists for each selected student; and
- Prohibit auditors from retaining personal student identification.

FCC auditors cannot verify the accuracy of the LEA's determinations (conduct verification of applications) and cannot contact the household or other sources (such as assistance agencies or employers) to confirm the information on the meal application. However, auditors may:

- Ensure the information on the application was accurately processed; i.e., that the income and the number of persons in the household were totalled correctly and the appropriate Income Eligibility Guidelines were used;
- Confirm that the children listed on rosters as eligible for free or reduced price meals have approved applications on files; and
- Confirm that the number of children used for statistical purposes is based on approved applications.

Any discrepancies in the above areas must be brought to the attention of the LEA.

Because these auditors are bound by TDA's disclosure of confidentiality requirements, they cannot share or otherwise release individual information. The FCC has instructed their auditors that the LEA may redact all information from the application that does not directly link a student to his/her student number. The LEA may redact the student's name, address, etc. as long as the student number and approved eligibility status were visible.

Equal Access for All Students

When a school offers a selection of more than one type of meal that is claimed for reimbursement or when it offers a variety of foods and fluid milk for choice within the meal requirements, the school must offer all children the same selection regardless of whether the children are eligible for free, reduced-price or pay the full price for meals set by the school. If certain items are not made available to all children, including those receiving free or reduced-price meals, those items may not be counted toward reimbursable meals.

When planning for special functions, parties, field trips, etc. the Child Nutrition department should be involved in the process to ensure that students are not denied meals, free and reduced-price students are not overtly identified and that meals claimed for reimbursement meet requirements. For instance, when field trips are planned, the Child Nutrition department can provide sack lunches for those students who request one. This would include free, reduced-price and paid student requests. Request forms used for field trips must not include eligibility status. By allowing all students to request a lunch if desired, overt identification is prevented.

Compliance with Regulations

Meals served on an all-cash line may never be claimed for reimbursement, even though the same items are offered on another serving line. If certain lines are not made available to all children, including those receiving free or reduced-price meals, meals served on those lines may not be claimed.

Denial of Meals as a Disciplinary Action

USDA policy prohibits the denial of meals as a disciplinary action against any student who is enrolled in a school participating in the Child Nutrition Programs. Disciplinary action which indirectly results in the loss of meals is allowable (e.g., a student is suspended from school). When the withholding of meals is the disciplinary action or if the disciplinary action directly results in the loss of meals, it is inconsistent with the law and is not allowable.

Regulations Regarding Disciplinary Action

When considering a disciplinary action against any student, school officials should ensure that such action is consistent with the above policy and should make a reimbursable meal available to any child attending school who, for disciplinary reasons, is not allowed to eat in the cafeteria.

Offer Versus Serve in Disciplinary Situations

If the meal is prepackaged, the offer versus serve provision does not apply. However, students must be allowed to choose from a selection of milk with different fat contents.

Meal Service for Students With No Money/No Lunch From Home

Schools are not required to serve children who receive reduced-price or full-price meals but

do not have money to pay. The state recommends districts establish a charge policy, even if it is a no-charge policy and may provide an alternative meal at the district's cost. Parents and students should be informed of the limitations of the established district policy.

Meal Access for In-School Suspension Students (ISS)

All students, including ISS students, must have equal access to foodservice (all lines and meal types) if they are allowed to go to the cafeteria to receive meals during regular meal periods. If ISS students are allowed access to the cafeteria, either before or after regular serving times, they may be limited to only one reimbursable line or meal type. In such a situation, the ISS students would have to be able to receive and consume their meals prior to, or after, the regular meal periods for other students.

Questions and Answers Regarding ISS Meal Service

Q. Can ISS students be required to bring a lunch from home?

A. If the school participates in the National School Lunch Program, students may not be required to bring a lunch. If the campus housing the ISS does not have foodservice available, the district is not required to provide meals.

Q. Can a district provide ISS students a lunch that is different than the meal served to students in the cafeteria?

A. Yes, ISS students can be served a different meal. If the meal is to be claimed for reimbursement it must meet meal requirements and the ISS student must be allowed to choose from a selection of milk with different fat contents.

Adequate Meal Service Periods

USDA encourages schools to make every effort to establish meal periods that are long enough for children to fully consume their meals and to provide an environment conducive to eating those meals. It is important, both nutritionally and socially, to give children sufficient time, a conducive atmosphere, and a safe environment to eat nutritious meals.

Meal Times for Breakfast, Lunch and Snack

Regular meal times specified in regulations for the National School Lunch Program have been identified as 10 a.m. to 2 p.m. Breakfast hours would be identified as meal service prior to 10 a.m. in most circumstances. Districts are encouraged to allow students to eat breakfast when they are late arriving at school. However, this is not a requirement.

Snacks to be claimed in the Afterschool Care Program are to be served at the end of the student's school day. For half-day school programs and split-session kindergarten programs, students can be served snacks at the end of their school day provided all other program eligibility requirements are met. The snack program has no ending timeframes.

Meal Service for Kindergarten and Pre-Kindergarten Programs

The National School Lunch and Breakfast Programs may be operated in schools of high school grade and under. This means that students attending kindergarten and pre-kindergarten programs are eligible to participate in the lunch and breakfast programs. Please refer to the meal pattern requirements when planning meals for these age groups. At the discretion of the school district, students attending school on a half-day basis may participate in the lunch and breakfast programs.

Meal Service for Off-site Consumption

National School Lunch and School Breakfast Programs authorizing legislation and regulations clearly intend that reimbursable meals prepared under the programs are to be served and consumed in the cafeteria or other designated eating areas. Therefore, meals may not be prepared for off-site consumption for children or adults. Examples include meals given to children to eat on the bus, take home with them due to early dismissal, etc.

Meals consumed on school-sponsored, supervised field trips may be reimbursed since the meals are served and consumed as part of a school-related function. Meals served during such field trips should be subject to especially stringent sanitary and precautionary measures to avoid food contamination and spoilage.

Sometimes circumstances exist for students who are enrolled in one school but attend another work-study site for the part of the day that includes the meal hour. When the work-study site does not participate in the programs, takeout school meals meeting program requirements may be served to such students and claimed for reimbursement by their home-base school.

Meal Service During Evening Hours

Schools may request alternative feeding times. The following information provides guidance about meal times other than the regular 10 a.m. to 2 p.m. lunch hours specified in regulations.

The National School Lunch Program regulations state that midday means between 10 a.m. and 2 p.m. and that reimbursable lunches would normally need to be served between these hours. It is further specified that evening meals cannot be considered lunch and that such meals should not be reimbursed. However, exemptions may be allowed on a case-by-case basis if they are approved by USDA Food and Nutrition Service (FNS), but under no circumstances can evening meals served to students in adult education courses or in delayed diploma programs be considered reimbursable. It is important to determine that schools are serving traditional high school students at a nontraditional time.

Applying for Traditional Meal Time Exemption

Requests must be made in writing to the Food and Nutrition Division of the Texas Department of Agriculture stating that the alternative time period activity is recognized as a school activity. The program should be described, including the time of day. These requests will be addressed on a case-by-case basis.

Meal Service on Weekends

Meals may be served and claimed for Saturday meals (breakfast, lunch and snack) as long as the classes are part of the district's instructional program and students are required to attend classes. Schools must request TDA approval to serve meals on weekends. Weekend meal service cannot be simply a school-affiliated extracurricular event or activity, such as football, band or choral activity.

Meal Service for Year-round Schools

USDA has determined that school districts participating in the National School Lunch Program (NSLP) and the School Breakfast Program (SBP) as part of their year-round program, may provide meals through these programs to children who are not in school (off track) because of school breaks or vacations if the students are engaged in school-sponsored educational activities. Year-round schools may claim reimbursement for eligible meals through the NSLP and SBP, but they must ensure that students are enrolled in school in an educational unit and that systems are in place to identify off-track children from other school children.

A la Carte Meal Service

If a school provides an a la carte service and has implemented offer versus serve, any combination of foods that would comprise the minimum required food items of the planned school meal may be sold at the unit price for school breakfast or lunch. The meal may be claimed for reimbursement as long as all required food items are made available to each student for lunch and breakfast. Also, in this case a la carte items would have to be made available to children eligible for free and reduced-price meals. If children choose fewer than the required number of food items, a la carte prices should be charged and no reimbursement claimed. Also, if additional foods not offered as part of the school meal are selected, a la carte prices should be charged for those items. Refer to the section on Meal Pricing for additional a la carte information.

Prohibition of an A la Carte Service by A Commercial Food Establishment

A school or school district is prohibited by federal regulations from contracting with a food service management company (or commercial enterprise) to operate an a la carte foodservice unless the company agrees to offer free, reduced-price, and paid meals to all eligible children. This rule applies regardless of whether the commercial foodservice is operated in the cafeteria or in other campus locations.

Questions and Answers Regarding A la Carte

Q. May a la carte items be grouped and totaled to equal the price charged for a full-price lunch or breakfast and claimed for reimbursement, such as 5 juices at 20 cents = \$1.00 (the price of the lunch) or 3 milks at 25 cents = 75 cents (the price of the breakfast)?

A. No. A reimbursable meal can be claimed only when the required food items are offered and the required number of food items are selected by the student.

Q. May salads that are priced per ounce be claimed for reimbursement?

A. No. The meal must be priced as a unit and all students must be allowed to choose the meal at the unit price.

Self-serve/Theme Bar Meal Service

In an effort to promote good nutrition and to provide an alternate menu choice for students, salad and other types of self-serve/theme bars have been added to the services available in many school cafeterias.

The self-serve/theme bar may be priced on an a la carte basis or as a reimbursable meal. One advantage of offering it as a reimbursable meal is that students receiving all levels of benefits (free, reduced-price and paid) have access to the additional service.

Criteria for Reimbursable Meals on Self-serve/Theme Bars

The following must be accomplished to claim reimbursement for meals selected from a self-serve bar:

- All menu items of the reimbursable lunch must be offered.
- The meal must be priced as a unit.
- The self-serve/theme bar must be available to students receiving all levels of benefits (paid, free and reduced-price).
- The menu items must be taken in the required amounts. If the school has offer versus serve, the minimum required number of menu items must be taken.
- Cashiers must be trained to recognize a reimbursable meal and the meal must be counted at the point-of-service.
- Food production records must be maintained on the self-serve/theme bar. Quantities of food used on the food production records should support at least the minimum required serving sizes.

Student-Parent Involvement

Student-Parent Involvement in the NSLP

Regulations require schools to promote activities to involve students and parents in the National School Lunch Program. Such activities may include menu planning, enhancement of eating environment, program promotion, and related community support activities. The type of parent and student involvement is left to the discretion of the individual school. In this way, the school is given flexibility to plan and implement a program to meet its individual needs. Since involvement of students and parents in the National School Lunch Program is a requirement, schools must document all activities.

Suggested Student-Parent Involvement Activities

Networking with other school districts provides a valuable wealth of ideas regarding the involvement of the community in your program. These are only a few suggestions to encourage involvement in your programs.

- Prepare articles and/or pictures for use in the local newspaper or student newsletter. Articles

might feature menus, meal statistics, special activities, offer versus serve or nutrition information.

- Plan menus to highlight special events, such as holidays and athletic victories, or foreign countries or specific regions of our country.
- Invite parents, grandparents or other people in the community to have lunch at school.
- Plan projects to improve the appearance of the cafeteria. Use bulletin boards, special holiday or seasonal decorations and student artwork.
- Conduct student surveys on food likes and dislikes and solicit menu suggestions.
- Conduct a survey and discuss with students possible improvements to reduce plate waste.
- Discuss nutrition in the classroom. Plan to evaluate one week's cafeteria menus to determine if they meet the Dietary Guidelines for Americans. Evaluate the menus as to variety, texture and color.
- Make available and encourage the use of nutritious snack foods.
- Allow one or several classes to plan menus.
- Encourage the home economics class to plan special diets that meet meal requirements for overweight and underweight persons.
- Organize a student tasting panel for new products being considered for use.
- Take the kindergarten students on a tour of the kitchen.
- Meet with students and parents to discuss the importance of nutrition as it relates to personal appearance and health.
- Form a Youth Advisory Council to promote Child Nutrition (CN) Programs in the school. Discuss ways of increasing participation, desired menu changes and alternate menu possibilities.
- Participate on PTO/PTA agenda to discuss CN Programs.

Youth Advisory Council (YAC)

Youth Advisory Councils are organizations composed of students who have the mutual goal of promoting good nutrition through the Child Nutrition Programs. Members participate in nutrition-related projects and serve as a communication bridge between the CN administration and the students and community.

Should additional information be needed on how to begin a YAC chapter, contact the Texas Association of School Nutrition (formerly the Texas School Food Service Association) or the School Nutrition Association (formerly the American School Food Service Association). Refer to the Resource section for contact numbers and addresses.

Documentation of Student-Parent Involvement

A prototype form at the end of this section may be reproduced and used to document student/parent involvement or the district may record the required documentation elsewhere.

Program Requirements Regarding Donation of Leftover Food

Constant over-production of food should be evaluated and adjustments made in the quantities of food produced. Forecasting and batch-cooking will aid in reducing the over-production of food items. However, if over-production does occur USDA has developed a process allowing for the food not to go to waste.

Donation of Leftover Food to Nonprofit Organizations

The USDA has revised its policy concerning the release of leftover food to charitable nonprofit organizations in the community. School districts may now release leftover food from their School Lunch and Breakfast Programs to charitable nonprofit organizations under the following conditions:

1. Good meal production planning is followed to ensure that one meal per child is produced.
2. The leftover food cannot be used in the CN program and would otherwise be thrown away.
3. State and local health codes are followed.
4. There is an agreement on file at the school district between the district and the nonprofit organization that includes at a minimum:
 - a. terms of the agreement;
 - b. duties of the district; duties of the contractor; nondiscrimination;
 - c. contractor not an officer, employee, or agent of the district;
 - d. liability;
 - e. hold harmless and indemnification; and certification of liability insurance.

Duties of the District Defined in Agreement

The district shall make available to the contractor at no cost and on a non-exclusive basis leftover food items from the district's Child Nutrition Program operations for which the district has no further use. A prototype agreement can be found at the end of this section.

Leftover food may not be sold to or by the receiving organization.

Duties of the Contractor Defined in Agreement

The contractor shall pick up the food items at times and places mutually agreeable to the parties specified in the paragraph on delivery, transport them as necessary and provide them at no cost to needy persons, all in a manner that complies with applicable laws and regulations.

Liability

The district shall not be liable to the contractor for personal injury or property damage sustained by the contractor in the performance of this contract, whether caused by the district, its officers, employees or by third persons.

Hold Harmless and Indemnification

The contractor agrees to release, discharge, indemnify, defend, and hold harmless the district, its employees, and agents for all illness, injury, or damage to persons or property that may arise out of the activities covered under this agreement, including the transportation, distribution, use, or consumption of food items, irrespective of any negligence on the part of the district.

Furthermore, the contractor agrees to defend and fully indemnify the district from any and all liability, loss or damage the district or its agents or employees may suffer as a result of claims, demands, costs, penalties, litigation or judgments against it arising from any and all illness, injury or damage to any person, persons or property caused by or resulting from the activities covered under this agreement, including the transportation, distribution, use or consumption of food items.

Insurance

The contractor shall carry sufficient general liability insurance to protect itself, its employees and agents against all such claims (referenced in paragraph on Hold Harmless & Indemnification) arising under this agreement and to indemnify and defend the district. Contractor shall provide the district with certificate(s) of insurance acceptable to the district's contracts supervisor, specifying that the district is to be given written notice 30 days in advance of any modification to or termination of coverage.

Delivery

Contractor shall take delivery at the following location(s): *(List schools)*

Sample Agreement

A sample agreement containing the necessary provisions is below.

THIS AGREEMENT is made and entered into this _____ of _____, _____, between _____ hereinafter referred to as the "Contractor," and _____, hereinafter referred to as the "District."

WHEREAS the Contractor is a nonprofit agency qualified to distribute food to needy persons in the community.

The parties hereby agree as follows:

1. *Term* – This Agreement is effective upon execution and shall remain in effect until terminated by the parties hereto. Either party may terminate this Agreement by providing the other party five (5) days advance written notification, delivered to its last known address.
2. *Duties of the District* – The District shall make available to the Contractor at no cost and on a non-exclusive basis leftover food items from the District's foodservice operation, for which the District has determined it has no further use.
3. *Duties of the Contractor* – The Contractor shall pick up the food items at times and places mutually agreeable to the parties as specified in Paragraph 9 below, transport them as necessary, and provide them at no cost to needy persons, all in a manner that complies with applicable laws and regulations.
4. *Nondiscrimination* – Neither party shall employ discrimination practices in its performance hereunder on the basis of race, color, religion, national origin, ancestry, sex, age or physical or mental handicap.
5. *Contractor not an Officer, Employee or Agent of the District* – While engaged in performance of this contract, the Contractor is an independent contractor and is not an officer, employee or agent of the District.
6. *Liability* – The District shall not be liable to the Contractor for personal injury or property damage sustained by the Contractor in the performance of this contract, whether caused by the District, its officers, employees or by third persons.
7. *Hold Harmless and Indemnification* – The Contractor agrees to release, discharge, indemnify, defend and hold harmless the District, its employees and agents for all illness, injury or damage to persons or property which may arise out of the activities covered under this Agreement, including the transportation, distribution, use or consumption of food items, irrespective of any negligence on the part of the District.

Furthermore, the Contractor agrees to defend and fully indemnify the District from any and all liability, loss or damage the District or its agents or employees may suffer as a result of claims, demands, costs, penalties, litigation or judgments against it arising from any and all illness, injury or damage to any person, persons or property caused by or resulting from the activities covered under this Agreement, including the transportation, distribution, use or consumption of food items.

8. *Insurance* – The Contractor shall carry sufficient general liability insurance to protect itself, its employees and agents against all such claims (referenced in Paragraph 7, above) arising under this Agreement, and to indemnify and defend the District.

Feeding Food Garbage to Swine

Texas passed a law stating the Child Nutrition Programs could not donate or sell any type of food garbage to animal farmers that contains meat, meat scraps or that came in contact with the cooking of meat. This law should help agriculture control the spread of disease from uncooked/cooked meat or meat products. The Texas Animal Health Commission oversees compliance of this law.

Use of Equipment

Child Nutrition equipment shall be used by the district in the program(s) that it was acquired for as long as needed. When equipment is no longer needed for the program, the equipment may be used in other USDA programs, provided the use will not interfere with the work/program for which the equipment was originally acquired. First preference shall be given to other USDA programs for use. If acquiring replacement equipment, the district may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

Equipment Inventory

Until equipment is disposed, the following requirements must be met:

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds the title, the acquisition date and the cost of the property, the location, percent of federal funds in the cost of the property and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. Any loss, damage or theft shall be investigated.
4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. If the property must be sold, proper sales procedures must be established to ensure the highest possible return.

Disposing of Equipment

Disposition of CN equipment should follow these requirements:

- Items of equipment with a current per unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the district.
- Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and CN shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by CN's share of the equipment.

All funds from the sale or disposition of CN equipment must be deposited in the Child Nutrition account.

Disaster Feeding

As part of the Federal Emergency Response Plan, USDA's Food Distribution Division has the primary responsibility of supplying food to disaster relief organizations such as the Red Cross and the Salvation Army for mass feeding or household distribution. Disaster organizations request food and nutrition assistance through state agencies that will notify USDA of the types and quantities of food that relief organizations need for emergency feeding operations. In an emergency, USDA can authorize states to release food stocks to disaster relief agencies to feed people at shelters and mass feeding sites.

Prior to providing commodity foods to disaster organizations, school districts are required to obtain prior approval from the Food Distribution Division. When contacting the division, districts should provide the following information:

- Description of major disaster or emergency situation
- Number of people requiring meals and congregate meal service period
- Quantity and type of food needed for congregate meal service
- Number and location of sites providing congregate meal service.

Signed receipts must be kept for all USDA commodities transferred to eligible disaster feeding organizations.

For more information about the emergency food and nutrition assistance operations for an area, contact the Texas Health and Human Services Commission, Food Distribution Division.

Suggested Guidelines to Follow During Shelter Operation

In the event of an emergency, the designated disaster organization operating in the area must contact the school district, if assistance is needed. The designated disaster organization and school district should determine which school locations would be open to provide relief. The size of kitchen and cafeteria, amount of inventory on hand, size and condition of equipment and available staff should be considered in determining locations. After a school site has been selected, the following guidelines are suggested:

- Keep accurate records concerning labor hours.
- Plan meals consisting of a meat component, fruit and vegetable components, a bread component and milk component, if possible. However, if a meal that does not have all the components is served, the disaster organization will reimburse or replace the food that was used.
- Keep accurate records of the number of meals served.

Additional Disaster Feeding Resources

Under the USDA/FNS Web site, visit Natural Disaster Assistance for information on the Food Distribution Program (FDP), FDP's Food Assistance in Disaster Situations, Food Stamps Program (FSP), Food Stamps Electronic Benefit Transfer and FSP State Hotlines. Other information is also available at: www.redcross.org/
www.fema.gov/
www.asfsa.org.

Local Wellness Policies

Requirements for Implementing a Local Wellness Policy

Each School Food Authority (SFA) (school districts, private schools or RCCI sites) participating in the National School Lunch Program (NSLP) or School Breakfast Program (SBP) must have a local wellness policy for schools under the SFA. At a minimum, the policy must meet these requirements:

- Include goals for nutrition education, physical activity and other school-based activities that are designed to promote student wellness.
- Include nutrition guidelines selected by the SFA for all foods available on each school campus under the SFA during the school day with the objectives of promoting student health and reducing childhood obesity.
- Provide assurance that guidelines for reimbursable school meals shall not be less restrictive than state and federal regulations and guidance.
- Establish a plan for measuring implementation of the local wellness policy, including designating one or more persons within the SFA charged with operational responsibility for ensuring that the school meets the local wellness policy.
- Involve parents, students, and representatives of the SFA, the school board, school administrators, and the public in the development of the school wellness policy.

SFAs may visit the USDA Food and Nutrition Service Web site at www.fns.usda.gov/tn/Healthy/wellnesspolicy.html for more information on establishing and enacting local wellness policies.

Policies and Procedures

TDA's "Local Wellness Policy Checklist," form FND-105, is given at the end of this section for your convenience. It is for use as a self-evaluation tool, and is also a required document for SFAs participating in NSLP. If needed, TDA will distribute the checklist to school districts and charter schools through the Education Service Center (ESC) Child Nutrition Program (CNP) Specialists, and to private schools and RCCI sites through Field Operations Monitors.

School Districts and Charter Schools

TDA's Food and Nutrition Division (FND) will provide technical assistance and required training to school districts and charter schools through the ESC CNP Specialists. The district/charter school must complete the Local Wellness Policy Checklist and submit it to the ESC with a written copy of the policy and proof of board approval (most often minutes from the board meeting). The ESC CNP Specialist will review all local wellness policies adopted by the school districts in their region to verify that they meet the minimum requirements. The ESC CNP Specialist will sign and submit a copy of the written local wellness policy, completed checklist, and proof of board approval to TDA FND to be kept on file. The districts and charter schools must keep a copy of the checklist (signed by the ESC and SFA representatives), the policy, and proof of the school board's approval of the policy and have them available during Coordinated Review Efforts (CRE) and School Meals Initiative (SMI) reviews.

Private Schools and RCCI Sites

The FND will provide technical assistance and required training to private schools and RCCIs through FND Field Operations Monitors in their regions. The FND Field Operations Monitor will review all local wellness policies adopted by the school districts in their region to verify that they meet the minimum requirements. The private school/RCCI must complete the Local Wellness Policy Checklist and submit it to the FND Field Operations Monitor with a copy of the policy and proof of board approval (most often minutes from the board meeting). The FND Field Operations Monitor will sign and submit a copy of the written local wellness policy, completed checklist, and proof of board approval to TDA FND to be kept on file. The schools and RCCIs must keep a copy of the checklist (signed by the TDA Field Operations Monitor and SFA representative), the policy, and proof of the school board's approval of the policy and have them available during CRE and SMI reviews.

Responsibilities of the SFA Child Nutrition Program

SFAs must submit documentation to support a local wellness program that complies with the USDA Guidance and includes a date for implementation to regional ESC CNP Specialists (for public school districts and charter schools) or FND Field Operation Monitors (for private schools and RCCIs). The SFA is responsible for the actual development of the policy and for meeting the minimum requirements listed above.

Compliance

During a CRE, the reviewer checks to see that the SFA has adopted and is adhering to the local wellness plan. There are two specific questions in the review about local wellness policies:

- Has the SFA adopted a wellness plan?
- Is the SFA following the wellness plan?

Documents to support the SFA's adoption of a local wellness policy must include:

- the FND-105 checklist signed by the appropriate authorities,
 - for public school districts and charter schools, the ESC and the SFA authority must sign
 - for private schools and RCCIs, the TDA Field Operations Monitor and the SFA authority must sign
- a copy of the local wellness policy, and
- proof of approval by the school board (such as meeting minutes).

To evaluate adherence to the local wellness policy, the TDA reviewer may ask:

- What are the SFA's goals for nutrition education, physical activity and other school-based activities that are designed to promote student wellness?
- Does the SFA adhere to nutrition guidelines outlined in the wellness policy?
- How does the SFA assure that guidelines for reimbursable school meals shall not be less restrictive than state and federal regulations and guidance?
- Who is charged with operational responsibility for ensuring that the school meets the local wellness policy?
- Were parents, students, and representatives of the SFA, the school board, school administrators, and the public involved in the development of the school wellness policy?



Texas Department of Agriculture
Local Wellness Policy Checklist

FND-105

TODD STAPLES, COMMISSIONER

School Food Authority (SFA) Name (School District, Private School or Residential Child Care Institution)	County District/ Program No.	Education Service Center (ESC) / Food and Nutrition Division (FND) Region:
Child Nutrition Program (CNP) Director / Authorized Representative Name		ESC CNP Specialist's / FND Field Operation Monitors Name

¹ IMPLEMENTATION		
1. SFA (School District, Private School or RCCI sites) has submitted documentation to support a local wellness policy that indicates implementation was effective as of July 1, 2006.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
2. SFA (School District, Private School or RCCI sites) has submitted documentation to support a local wellness policy that indicates implementation was effective within 12 months of approval of program application.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
² DEVELOPMENT OF POLICY		
SECTION B	1. Involves parents	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	2. Involves students	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	3. Involves representatives of the SFA	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	4. Involves school board	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	5. Involves school administrators	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	6. Involves the public	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
A box marked "No" or "N/A" requires an explanation in the Notes section. The "N/A" box can only be marked if the question is not applicable to program regulations.		
Notes		

This document becomes public record and is subject to disclosure. With few exceptions, you have the right to request and be informed about the information that the State of Texas collects about you. You are entitled to receive and review the information upon request. You also have the right to ask the state agency to correct any information that is determined to be incorrect. (Reference: Government Code, Sections 552.021, 552.023, and 559.004.)

³ GOALS AND GUIDELINES			
SECTION B (CONTINUED)	1. Includes goals for nutrition education designed to promote student wellness	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	2. Includes goals for physical activity designed to promote student wellness	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	3. Includes goals for other school-based activities designed to promote student wellness	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	4. Includes nutrition guidelines for all foods and beverages available on each school campus during the school day	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	5. Provides assurance that guidelines for reimbursable meals shall not be less restrictive than the regulations and guidance of the Child Nutrition Act and the National School Lunch Act	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	A box marked "No" or "N/A" requires an explanation in the Notes section. The "N/A" box can only be marked if the question is not applicable to program regulations.		
Notes			
⁴ MEASUREMENT OF IMPLEMENTATION			
SECTION B (CONTINUED)	1. Policy establishes a plan for measuring implementation of the local wellness policy	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	2. Policy designates one or more persons responsible for implementation and monitoring within the SFA or at each school of the local wellness policy	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	3. Designated person(s) has (have) the operational responsibility for ensuring that the school meets the local wellness policy	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	4. Designated person(s) is (are) responsible for measuring implementation of the policy	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
	A box marked "No" or "N/A" requires an explanation in the Notes section. The "N/A" box can only be marked if the question is not applicable to program regulations.		
	Notes		
⁵ SIGNATURES			
SECTION C	Signature of CNP Director / Authorized Representative	Title	Date (mm/dd/yy) / /
	Signature of ESC CNP Specialist / FND Field Operations Monitor		Date (mm/dd/yy) / /
	Signature of TDA official		Date (mm/dd/yy) / /

Federal/State Policies and Procedures

USDA Guidance/Requirements for Implementing a Local Wellness Policy:

As of the first day of the school year beginning after June 30, 2006, each School Food Authority (SFA) participating in a program authorized by the Richard B. Russell National School Lunch Act (42 U.S.C.1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for schools under the SFA that, at a minimum: includes goals for nutrition education, physical activity and other school-based activities that are designed to promote student wellness in a manner that the SFA determines is appropriate; includes nutrition guidelines selected by the SFA for all foods available on each school campus under the SFA during the school day with the objectives of promoting student health and reducing childhood obesity; provides assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the Secretary of Agriculture pursuant to Subsections (a) and (b) of Section 10 of the Child Nutrition Act (42 U.S.C. 1779) and Section 9(f)(1) and 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C.1758(f)(1), 1766(a) as those regulations and guidance apply to schools; establishes a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the SFA or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and involves parents, students, and representatives of the SFA, the school board, school administrators, and the public in the development of the school wellness policy.

The Secretary of Agriculture, in coordination with the Secretary of Education and in consultation with the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall make available to LEAs, SFAs and State educational agencies, on request, information and technical assistance for use in establishing healthy school nutrition environments, reducing childhood obesity, and preventing diet-related chronic diseases. Technical assistance provided by the Secretary under this section shall: include relevant and applicable examples of schools and SFAs that have taken steps to offer healthy options for foods sold or served in schools; include such other technical assistance as required to carry out the goals of promoting sound nutrition and establishing healthy school nutrition environments that are consistent with the local wellness policy, be provided in such a manner as to be consistent with the specific needs and requirements of local educational agencies, and be for guidance purposes only and not be construed as binding or as a mandate to school districts or state educational agencies.

Responsibilities of Texas Department Of Agriculture (TDA) Food and Nutrition Division (FND):

The FND will provide technical assistance and required training to the local SFA (school districts, private schools or RCCI sites) through the ESC CNP specialists or FND Field Operations Monitors in their region. The FND will supply training materials for the wellness policy training sessions and offer resources for school districts through TDA’s Square Meals Web site at www.squaremeals.org. Training materials for private schools and RCCI sites will be provided through on-site NSL/SBP workshops. Resources are offered through the TDA website at www.snptexas.org. Copies of all local wellness policies and their corresponding completed checklists will be reviewed by the FND and placed in TDA’s SFA (school districts, private schools or RCCI). This requirement will be monitored during the scheduled Coordinated Review Effort and School Meals Initiative Review.

SECTION D

SECTION D (CONTINUED)	<p>Federal/State Policies and Procedures</p> <p>TDA will distribute the Wellness Policy Checklist to SFA’s (school districts, private schools or RCCI site), as needed, thru the ESC CNP Specialist and directly to private schools and RCCI sites for use as a self-evaluation tool.</p> <p>The FND will provide technical assistance and required training to the local SFA (school district, private school or RCCI site) through the ESC CNP Specialists or FND Field Operations Monitors in their region. The training sessions should provide all the information SFA’s (school districts, private schools or RCCI site) need to develop a local wellness policy that meets the requirements of the 2004 Reauthorization Act. The ESC CNP Specialist/FND Field Operation Staff will review all local wellness policies adopted by the school districts in their region and will complete the Wellness Policy Checklist to verify all local wellness policies meet the minimum requirements established by the 2004 Reauthorization Act and USDA. The ESC CNP Specialist/FND Field Operation Staff will sign and submit a copy of the written local wellness policy and completed checklist to the TDA FND for final review and to be placed in TDA’s SFA’s (school districts, private schools or RCCI site) file.</p> <p>Responsibilities of the SFA / Private School/RCCI sites’s Child Nutrition Program:</p> <p>SFAs (school districts, private schools or RCCI sites) must submit to regional ESC CNP Specialist(s) or FND Field Operation Monitors documentation to support a local wellness program that complies with the USDA Guidance and includes a date for implementation.</p> <ul style="list-style-type: none"> • School districts must submit the documentation to regional ESC CNP Specialists. • Private schools and RCCI sites must submit the documentation to FND Field Operation Staff. <p>As of the first day of the school year beginning after June 30, 2006, the SFA (school districts, private schools or RCCI site) is responsible for the actual development of the policy and for meeting the minimum requirements established by the 2004 Reauthorization Act.</p>
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Charter School Q&A

Q: Are Charter Schools allowed to participate in NSLP and SBP?

A: Yes. Charter Schools can participate in the NSLP and SBP as eligible schools.

Q: How do Charter Schools differ from “traditional” public schools?

A: In lieu of adhering to the standard education requirements for public schools, Charter Schools operate under an individual charter, issued by The Texas Education Agency (TEA). The charter stipulates how the school must operate and the level of student performance that the school must maintain. Charter Schools operate with an independent Board of Directors that is typically comprised of community, civic leaders, business leaders and at least one parent representative.

Q: Are Charter Schools bound by the same NSLP/SBP regulations as public schools and private schools?

A: Yes. A Charter School that is participating in USDA programs must comply with federal and state regulations and policy directives established for NSLP, SBP, and the Afterschool Care Program. A Charter School’s nonprofit status does not exempt it from nutrition and accountability standards set for the programs.

Q: What does the term School Food Authority (SFA) mean?

A: An SFA, as defined by 7CFR Part 210.2, is the governing body responsible for the administration of one or more schools and has the legal authority to operate the programs therein or be otherwise approved by USDA’s Food and Nutrition Service (FNS) to operate the programs. In the situation described above, the Charter School Board of Directors is the designated SFA and as such enters into an agreement with TDA to operate the National School Lunch Program, School Breakfast Program and/or Afterschool Care Program.

Q: Can the SFA enter into a contractual relationship with a food service management company to manage its school meals operations?

A: Yes. The school meal program regulations are very clear regarding the responsibilities of SFAs that contract with Food Service Management Companies (FSMCs). Regulations clarify that any SFA that employs an FSMC retains ultimate responsibility for all aspects of program administration.

Q: Can a Charter School participate in a purchasing cooperative, or contract with an Education Service Center (ESC) for procurement and financial accounting responsibilities?

A: Yes. It is permissible for the SFA to participate in a purchasing cooperative and assign some of its administrative duties to the ESC. However, keep in mind that eligibility and verification responsibilities cannot be assigned to the ESC. Ultimately, the responsibilities for all aspects of the programs remain with the SFA and the SFA must ensure that all program requirements are met.