Texas Department of Agriculture

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

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Section 1000 Introduction

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release are highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
May 2025	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A

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1100 Program Description

Originally established by the U.S. Congress in 1968, the Child and Adult Care Food Program (CACFP) had its origins as the Child Care Food Program. The program began as a three-year pilot named the Special Food Service Program for Children and aimed to establish an affordable food program for low-income working mothers. Initially, the program granted funds to states to provide meals during school breaks.

In 1976, eligibility was expanded to family child care homes that met state licensing requirements or obtained approval from a state or local agency. Over time, financial incentives were introduced to encourage participation, and it transitioned from a pilot program to the permanent Child Care Food Program (1978). The adult care component was authorized in 1987 following the enactment of the Older Americans Act.

The modern program's goal is to offer nutritious foods that contribute to the well-being, healthy growth, and development of young children, as well as the health and wellness of older adults and chronically impaired disabled persons.

Federal assistance is provided to states to manage the CACFP under the National School Lunch Act, as amended. States use this assistance to initiate, maintain, and expand nonprofit food services for children enrolled in nonresidential institutions for child care. The current institutions the CACFP serves are:

- Nonprofit child care centers;
- Nonprofit adult day care centers;
- Certain for-profit child care and adult day care centers;
- At-risk afterschool care programs;
- Emergency shelters;
- Outside school hours care centers; and
- Day care homes for children.

This handbook explains program requirements and protocols that a contracting entity (CE) must follow while operating a nonprofit food service in the CACFP. Note that if new guidance or regulations are issued before this handbook can be updated, that guidance will supersede any conflicting guidance in the handbook. However, such guidance will be distributed via SquareMeals.org updates, newsletters, and statewide webinars.

1200 Administration

The Texas Department of Agriculture (TDA) has an agreement with the United States Department of Agriculture (USDA) to administer the CACFP in Texas under federal and state requirements. In addition to this handbook, these requirements can be found in the:

- Code of Federal Regulations (CFR) at 7 CFR Part 226;
- Texas Administrative Code (TAC) at Title 4, Part 1, Chapter 25, Subchapter A; and
- USDA Food and Nutrition Service (FNS) CACFP handbooks.

TDA administers the CACFP at statewide offices and in partnership with our CEs. Additionally, each CE is assigned to a regional Education Service Center (ESC), which provides technical assistance and offers Program training to CEs to strengthen understanding of CACFP operations and compliance requirements.

CEs must comply with federal and state requirements in their operation of the Program and, if a sponsoring organization, ensure compliance at all sponsored sites. Together, TDA and CEs must ensure effective use of taxpayer dollars to provide nutritious meals to participants and encourage Texans to live healthy lifestyles.

1300 Other Programs

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

- National School Lunch Program (NSLP)
  - Afterschool Care Program (ASCP)
  - Seamless Summer Option (SSO)
  - Fresh Fruit and Vegetable Program (FFVP)
- School Breakfast Program (SBP)
- Special Milk Program (SMP)
- Summer Food Service Program (SFSP)

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

- Does not serve or claim the same meal(s) for a participant in multiple programs.
- Maintains separate records for each program.
- Attributes costs to the appropriate program.
- Understands the different regulations and requirements pertinent to the respective programs in which it participates.

1400 Funding

USDA monies are used to fund certain costs associated with food services provided to nutrition program participants. Funding may be used to:

- Reimburse CEs for part of the cost of serving meals and snacks to participants at eligible sites/providers.
- Reimburse CEs for approved administrative costs associated with operating the program.
- Reimburse CEs for the expense associated with obtaining an approved audit.
- Fund advance payments, start-up funds, and expansion funds, if applicable.

1500 Appeals

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

Section 2000 Eligibility and Application Requirements

Log of Section Updates

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May 2025	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A
	This section was rewritten and reorganized for clarity.	Throughout
	Added more clarity to the definitions of affiliated and unaffiliated sites.	2000
	Added participant eligibility requirements for all site types.	2200
	Updated broken link to HHSC's licensed child care search page.	2213
	Clarified eligibility of for-profit At-risk sites.	2230
	Added a reference to the School Data for Area Eligibility report on SquareMeals.	2242.1
	Added more details about eligibility of At-risk sites operating at other facilities that might already be operating a different component of CACFP or other Child Nutrition Program.	2243, 2243.1, 2243.2
	Provided clarification on eligible At-risk enrichment programs.	2244
	Added examples of sites that would not be eligible to operate as an emergency shelter.	2270
	Updated initial application steps for new CEs.	2411

	Added that new CE applicants must provide at least 12 months of bank statements to show proof of financial viability.	2421.1
	Defined examples of what budget changes would require an amendment approved by TDA.	2430
	Added clarification about multi-year contracts requiring Specific Prior Written Approval (SPWA)	2431
	Added guidance about entities doing business with the federal government requiring a Unique Entity Identifier (UEI) number (replaces guidance requiring a DUNS number).	2440

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Eligibility and Application Requirements

Contracting entities (CEs) are organizations that contract directly with the Texas Department of Agriculture (TDA) to administer the Child and Adult Care Food Program (CACFP). CEs may operate CACFP as:

- An independent child care center, At-risk site, adult day care center, outside-school-hours care center, or emergency shelter.
- A *sponsor* of those same center types (sites) listed in the previous bullet. Sponsored sites may be:
  - **Affiliated**: Part of the same legal entity as the sponsor CE. Sites operating at a legally unaffiliated location but where the sponsor has complete operational and financial control of all facets of the program (affiliated staff, food procurement, etc,) may be considered affiliated.
  - **Unaffiliated:** Legally distinct from the sponsor CE. Unaffiliated sites operate at a legally unaffiliated location **and** rely on staff associated with that location to operate the program.
- A *sponsor of* day care homes (providers). Note that providers can only operate CACFP under the sponsorship of a CE.

Organizations contracting with TDA to administer the program can be School Food Authorities (SFAs), non-profit organizations, Head Start programs, and governmental entities. For-profit independent centers may participate if they meet the for-profit eligibility requirements described in this section. A for-profit sponsoring organization can only participate if it sponsors only affiliated sites.

2100 Contracting Entity Eligibility

To participate in CACFP, all CEs must meet the following eligibility requirements:

- **Tax-Exempt Status:** Except for for-profit organizations that meet specific eligibility requirements, applying CEs must be public or have tax-exempt status under the Internal Revenue Code of 1986.
- **Recordkeeping:** CEs must maintain all required records and documents.
- **Administrative and Financial Responsibility:** CEs must accept full administrative and financial responsibility for Program operations at their sites/providers. CEs may not contract out CACFP management responsibilities (See Section 3000 of the CACFP Handbook for subcontracting information).
- **Staffing:** CEs must provide adequate personnel to manage and monitor operations.
- **Training:** CEs must complete all required TDA training.
- **Nonprofit Food Service:** CEs, must operate a nonprofit food service (See Section 7000 of the CACFP Handbook for more information on operating a nonprofit food service account).

- **Complete Application Process:** CEs must submit a complete application with all required documentation and after approval, sign a Permanent Agreement with TDA prior to Program operations.

In addition to meeting the general requirements above**, CEs that are sponsors of sites/providers** must also:

1. Ensure all sponsored sites/providers meet applicable eligibility requirements outlined in this section.
2. If adding sites/providers outside the open enrollment period (June 1 through September 30), ensure the site/provider is not already under the sponsorship of another CE.[1]
3. Provide sufficient supervisory and operational staff, including monitoring staff, for the effective management and monitoring of the CACFP at all sponsored sites/providers.
4. Restrict employees from securing additional employment interfering with their CACFP responsibilities and duties (i.e., scheduling or conflict-of-interests).
5. Ensure all site/provider staff receives required training.
6. **For day care home sponsors:** Ensure all sponsored homes provide organized, nonresidential child care.
7. **New sponsors or reapplicants after break in service[2]:** Demonstrate unmet need.

Unmet Need

New sponsors or those reapplying after a break in service must document that they will provide meal benefits to previously unserved sites/providers.

To demonstrate unmet need, the organization must apply to sponsor only sites/providers that have not participated in the CACFP within the past 12 months (from the application submission date). Sponsors must certify this information in their application.

Once approved to participate, sponsors may continue to add sites/providers regardless of their past CACFP participation; **however, prior to open enrollment**, they cannot recruit nor enter into a Permanent Agreement with sites/providers that are currently participating or had participated with a different sponsor in the CACFP in the current program year unless the site can document good cause for transferring. See Section 4000 for more details.

NOTE: SFAs currently participating in the National School Lunch Program (NSLP) and/or the School Breakfast Program (SBP), and current Summer Food Service Program (SFSP) sponsors that are in good standing with TDA (not currently in the serious deficiency process for SFSP) are not required to demonstrate unmet need when applying to CACFP as a sponsor.

[1] Sites/providers may only switch sponsors, without prior approval from TDA, between June 1 and September 30 of each program year. Permanent Agreements between the CE and the site/provider signed during the open enrollment period are effective at the beginning of the next Program Year (October 1). See Section 4000 for more details.

[2] A **break in service** means any period when an organization does not have a signed and approved Food and Nutrition Division (FND) permanent agreement. This agreement may have been terminated for cause or by mutual consent.

2200 Site/Provider Eligibility

Independent and sponsored child care centers, adult day care centers, At-risk sites, outside-school-hours care centers, and emergency shelters, as well as day care home providers, generally must meet the following eligibility requirements except where noted:

- **Licensing:** Sites/providers must be licensed or registered by federal, state, or local authorities to provide participant care, **or** retain licensing/registration exemption documentation provided by the licensing authority. See *Licensing and Registration* below.
- **(Centers only) Meet applicable non-profit or for-profit eligibility requirements:** See *Tax Exempt Status* and *For-profit Centers* below.
- **Non-residential care:** Provide non-residential participant care. See *Emergency Shelter Provisions* below for exceptions.
- **Participant eligibility:**
  - **Child care centers and outside school hours care centers:** – Eligible participants include children 12 years of age and under, children age 15 and under who are children of migrant workers, and persons of any age with disabilities.
  - **At-risk sites:** School-age children through age 18 (or 19 if the individual turns 19 during the school year) and persons of any age with disabilities.
  - **Adult day care centers**: Persons who are functionally impaired[3] or 60 years of age or older
  - **Emergency shelters:** Persons 18 and under

2210 Licensing and Registration

2211 Documentation Requirements

To document licensure, applicable sites and providers must maintain a copy of the license or registration issued by:

- Texas Health and Human Services Commission (HHSC), or
- For child care programs:
  - Military installation; or
  - Indian reservation.
- For adult day care centers:
  - Other licensing authority.

[3] Defined by regulation as a "chronically impaired disabled persons 18 years of age or older, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, who are physically or mentally impaired to the extent that their capacity for independence and their ability to carry out activities of daily living is markedly limited."

If a childcare site/provider is approved for child care by HHSC but hasn't received its license, a CE may submit alternate documentation (see *Alternate HHSC Documentation* below). The site/provider must immediately submit the copy of the license when it is received.

2212 Change in License Status

TDA verifies a site/center's license when it is:

- Amended;
- Relinquished; or
- Up for renewal, with documentation to demonstrate compliance with renewal procedures.

NOTES:

- During renewal (continuation) processing, CEs are not required to submit copies of site licenses unless their status has changed. However, CEs must certify each site maintains a current license or exemption.
- For each new added site, sponsor CEs must submit documentation of licensure or exemption.

2213 Alternate HHSC Documentation

If a site/provider is approved for childcare by HHSC but hasn't received its license, a CE may submit a screenshot as temporary proof of license or registration. CEs must:

- Submit the copy of the license/registration immediately when it is received.
- If actual license or registration is not received within 3 months of submitting temporary proof, contact the site or HHSC to obtain license or its status.

To obtain this screenshot, utilize the "Search Texas Child Care" search engine at https://childcare.hhs.texas.gov/Public/childcaresearch# to find the location and print the results.

Screenshots must include the HHSC logo and name (see *Section 11000 Resources* for an example). TDA will verify documentation and initiate the serious deficiency process for falsified records or those not from the HHSC website.

If a licensed site/provider whose address has changed can submit a screenshot that has its new location's address, they will still be eligible to claim reimbursement for meals. If the screenshot reflects the site/provider's old address, the site/provider will not be eligible to claim meals.

TDA will suspend the alternate documentation option for any CE that:

- Fails to submit licenses within reasonable timeframes after submitting temporary proof.
- Shows pattern of not making good faith efforts to obtain licenses.

2214 Exemptions to HHSC Licensing Requirements

Emergency shelters, outside-school-hours care centers, and At-risk sites may qualify for exemption from licensing under these conditions:

- Neither license nor written exemption from HHSC required for sites operating:
    - Less than 2 hours daily; or
    - More than 2 hours daily but less than 3 days weekly.
- License or written exemption from HHSC **required** for sites operating:
    - Exactly 2 hours daily for 3+ days weekly; and
    - More than 2 hours daily for 3+ days weekly.

  NOTE: The time durations above apply to the "Normal Hours of Child Care Operations," as indicated on the site application and not the meal service duration.

Exempt organizations must submit documentation (e.g., most recently completed inspection report, certificate of compliance) demonstrating compliance with city, county, or state health and safety requirements with their site application. A list of local public health organizations can be found at http://dshs.texas.gov/regions/lhds.shtm.

EXCEPTIONS: When applying for the At-risk component, the following are exempt from submitting health or safety documentation:

- SFAs currently participating in NSLP/SBP.
- Non-SFA sites in schools participating in NSLP/SBP, if school has required food inspections for meal programs.
    - CEs should verify school compliance with school officials.
    - CEs must obtain health and safety documentation if school does not have the documentation available.

NOTE: Submission of a letter to the local health or safety authority does not qualify as documentation of compliance.

2215 Operational Changes, Including Operation Times

Before making changes to operational hours, days, or months, or other operational aspects, sites/providers must:

- Notify HHSC in advance; and
- Receive approval.

TDA will not approve meals/snacks and weekend participation if operation hours/days listed on the site/provider's application do not match those listed on the HHSC licensing website.

NOTE: If a CE approves a site/provider to claim meals during weekend care, they must:

- Ensure the site/provider is licensed to operate on weekends;
- Document weekend operation approval; and
- Monitor the site/provider's weekend participation.

2216 Day Care Home Provider Location Changes

Licensed day care home providers who change locations:

- Become ineligible for CACFP if not licensed at the new address.
- May receive a temporary license while awaiting permanent licensure determination if HHSC is notified before moving.
- May participate in CACFP with a temporary license.

Registered day care home providers who change locations:

- May continue operating under current registration if HHSC is notified within 15 calendar days of moving.
- If the provider is newly sponsored:
  - CEs may submit current registration with notation of location change date.
  - Must provide new address in the application.

If a provider fails to notify HHSC within 15 calendar days of moving or is otherwise ineligible for amended registration:

- HHSC will send written revocation notice.
- During revocation process, the provider:
  - Remains eligible to provide childcare; and
  - Remains eligible for CACFP participation until all appeal rights are exhausted.
- After final decision, the provider is ineligible for both child care and CACFP if HHSC officially revokes registration.

2217 Violation Reporting

TDA will report any site/provider violating licensing rules, including those for meals and snacks, to HHSC for investigation. CEs must report sponsored sites/providers that violate licensing rules to HHSC, including violations of requirements for:

- Meals and snacks; and
- Hours, days, and months of operation

2220 Tax Exempt Status

Tax-exempt organizations must:

- Receive and maintain tax-exempt status under 501(c)(3) from the IRS either:
  - Individually; or
  - As part of a group ruling, in which case the organization must submit proof of affiliation with the tax-exempt parent organization.
- Upon tax-exempt status loss, notify TDA and voluntarily terminate its Permanent Agreement:
  - Failure to do so will result in placement within the serious deficiency process.
  - To prevent losing tax-exempt status, organizations must ensure compliance with the IRS 990 filing requirements.
- **For sponsors of centers:** Maintain and make available tax-exempt status documentation for sponsored nonprofit sites.

2221 Exceptions for Tax-Exempt Requirements

The following organizations do not need to submit proof of tax-exemption:

- Churches meeting definitions outlined in IRS publications 557, Tax Exempt Status for Your Organization and 1828, Tax Guide for Churches and Religious Organizations.
- SFAs currently participating in NSLP/SBP.
- Current tax-exempt SFSP sponsors in good standing that have already submitted this documentation to TDA.

2230 For-profit Sites

For-profit organizations must demonstrate that during the month before initial application or renewal:

- **Child care centers or outside-school-hours care centers:**

  25% of the *lower of* enrolled children or licensed capacity:
  - Were eligible for free or reduced-price meals; **or**
  - Received Title XX benefits from amounts granted to the center by Texas.
- **At-risk sites:** At-risk sites **must** be nonprofit **unless** operated by a for-profit, traditional child care center meeting the for-profit requirements described above. School-age participants in an At-risk program located at a child care center **must not** be counted in the 25% enrollment/licensed capacity calculations for determining for-profit center eligibility.
- **Adult Day Care center:**

  25% of the adults enrolled received Title XIX or Title XX benefits, or a combination of both, from amounts granted to the center by Texas.

NOTE: Centers that are neither recognized as nonprofit entities by the IRS or administered by a tribal government[4] are considered for-profit organizations and are subject to the applicable 25% enrollment/licensed capacity requirements described above.

Once approved, for-profit organizations may continue participation even if the percentage of enrollees that meet the above applicable criteria falls below 25%. However, **no meal reimbursement** will be provided for any month when this percentage is below 25%, including meals served in both traditional and At-risk components, if applicable.

NOTES:

- **No rounding up:** For-profit organizations must never round up percentages (e.g., 24.99% does not meet the 25% eligibility requirement).
- **Title XIX or XX calculations:** Individuals must be documented recipients of Title XIX or Title XX benefits to be included in the 25% calculations. Title XIX or XX recipients may include:
  - Child Care and Development Fund pool recipients receiving Title XX benefits.
  - Children receiving Title XX benefits for self-arranged care.
  - HHSC Day Activity and Health Services (DAHS) program Title XX adult beneficiaries as documented on a printout of the automated claims file; adult day care sites must have a DAHS contract to provide Title XX benefits to clients.
  - STAR+PLUS program adults receiving Title XIX benefits.

STAR+PLUS Program for Adults

STAR+PLUS is a Texas Medicaid managed care program for people with disabilities or aged 65+. Participants are Title XIX clients with full Medicaid coverage and are automatically eligible for free meals; they must provide their Medicaid case number when completing the CACFP Meal Benefit Income Eligibility Form (Adult Care).

Participants enrolled at least one day in the claim month can be included by for-profit sites in their calculations towards the 25% requirement for claims reimbursement.

NOTE: HHSC does not terminate DAHS contracts for contractors participating in the STAR+PLUS Program.

[4] For Program purposes, TDA recognizes as nonprofit entities centers directly administered by Native American tribal governments, if the tribal government is either a) recognized as a public institution or local government by federal or state law or b) granted nonprofit status by the IRS.

2240 At-Risk Site Provisions

2241 Additional Eligibility Requirements

In addition to the eligibility requirements for centers listed above, At-risk afterschool centers must meet the following eligibility requirements:

- **Afterschool child care as primary purpose:** Programs must be organized primarily to provide child care after school or on weekends, holidays, or school vacations during the regular school year.
- **Organized enrichment activities:** Programs must provide regularly scheduled, structured, and supervised educational or enrichment activities that are available to all children in attendance at the program. Refer to *Organized At-risk Enrichment Activities Guidelines* below for more information on eligible enrichment activities at At-risk sites.
- **Area eligibility requirements:** The site must be located in an attendance area meeting requirements outlined in *Area Eligibility Requirements for At-risk Sites*.

2242 Area Eligibility Requirements for At-risk Sites

At-risk sites must be located in the attendance area of a public school where at least 50% of enrolled children are eligible for free or reduced-price school meals under the National School Lunch Program (NSLP).[5]

2242.1 Data Used for Determining Area Eligibility

An At-risk site is area eligible if it is at a school, or in the attendance area of a school, for which school data from the most recent October indicates that at least 50% of enrolled children are eligible for free or reduced-price lunch. By February 15 of each year, TDA publishes the *School Data for Area Eligibility* report on the CACFP Administration/Forms page of SquareMeals that lists all area-eligible schools in the state.

CEs <u>may not</u> use the following to determine area eligibility:

1. Census data.
2. Free and reduced-price enrollment data from private or charter schools, *unless* the afterschool program is located in the private or charter school.

Area eligibility determinations are valid for five years unless TDA receives information indicating the At-risk site is no longer area eligible.

2242.2 Busing and School Choice

If the site is in an area with busing (students assigned to schools outside their neighborhood to achieve racial or economic diversity), **and the district has defined attendance zones,** the CE has two options to determine area eligibility for an At-risk site. The CE can:

- Use student free/reduced eligibility data based on the current enrollment at the school where the bused children are attending; *or*

[5] At-risk sites at emergency shelters are excepted from area eligibility requirements. See *At-risk Programs at Child Care Center, Emergency Shelters, or Residential Child Care Institutions* for more information.

- Calculate the student free/reduced eligibility data of the school the participants *would have attended* if the busing policies were not in effect. This calculation **must** be based on what the enrollment data would show **if the students were not reassigned.**

  EXAMPLE: If a non-school site is near a school that is not area eligible, but the Program participants consist of students that are being bused from another attendance zone, if the sponsor is able to determine that the school in the area where the children are bused from would be area eligible *if the students were still attending that school*, then the site could be considered area eligible.

NOTE: The same method of determining site eligibility must be used for all sites participating under that CE to avoid duplicate counting.

In areas that do not have specific assigned schools but allow children to enroll in any of the area schools (school choice), At-risk programs located in school buildings should use the free and reduced price enrollment data from the school they are located in to determine area eligibility. Non-school sites wishing to operate an At-risk program in areas without defined attendance zones should reach out to their Education Service Center to determine the options for being able to operate an At-risk program.

2243 At-risk Programs at Other Facilities

2243.1 At-Risk at Traditional Child Care Centers

Traditional or for-profit child care centers already participating in CACFP who want to add the At-risk afterschool component must:

- Meet all eligibility requirements for At-risk afterschool sites.
- Provide an eligible afterschool program that is separate and distinct from their regular child care services. **Meals served in excess of two meals and one snack per child per day cannot be reimbursed.** As such, if enrollees in child care are receiving the maximum number of CACFP meals during the day, meals served to those same children in the At-risk program on the same day are ineligible for reimbursement.
- Ensure the afterschool program is open to all children in the community and not just those already enrolled at the center.

2243.2 At-Risk at Emergency Shelters

Emergency shelters may operate At-risk centers and **are exempt from area eligibility requirements**. However, the rules about the maximum number of meals per day per child still apply. Emergency shelters can serve three full meals (breakfast, lunch, and supper) or two meals and one snack per child per day.

By adding an At-risk center at the shelter, CEs must ensure that if children living at the shelter are also participating in the At-risk program, they are not receiving more than three CACFP meals, or two meals and one snack, total per day. Shelters must be able to distinguish between suppers and/or evening snacks served to children normally at the shelter versus those served to residents participating in the At-risk program.

Note that any At-risk programs offered at an emergency shelter must adhere to all At-risk requirements (with the exception of area eligibility). For example, At-risk programs at emergency shelters must not serve CACFP meals outside of the regular school year.

2243.3 At-Risk at Residential Child Care Institutions

Generally, programs that serve only residential children (with the exception of homeless shelters) are not eligible to participate in CACFP. **However**, a residential facility may be eligible to operate an At-risk program if it offers an afterschool education or enrichment programs for non-residential children and if the At-risk site meets all eligibility requirements described above, including area eligibility requirements.

2244 Organized At-risk Enrichment Activities Guidelines

At-risk programs must provide regularly-scheduled, structured, and supervised educational or enrichment activities that are available to all children in attendance at the program. Programs may be drop-in or have a pre-defined enrollment.

Regulations explicitly prevent At-risk programs limited to participants in organized athletic or scholastic programs involved in interscholastic or community-level competitive activities (for example, youth sports leagues such as “Babe Ruth” and “Pop Warner” sports leagues, community soccer and football leagues, area swim teams, and University Interscholastic League (UIL) team practices).

However, after-school programs that include supervised athletic activity may participate, provided that they do not limit membership based on a child’s ability. Additionally, children participating in competitive sports or interscholastic activities after school are eligible to receive At-risk meals as long as a more inclusive enrichment program is occurring at the site.

Beyond the exclusion of competitive and interscholastic programs, At-risk programs **may** impose limits on participation based on:

- **Space or security concerns** (for example, a school program could limit participation to students enrolled at the school or within the district, or a licensed center might limit participation based on capacity).
- **The nature of the enrichment**: Programs may target children of certain ages or certain needs, such as children with disabilities or academically gifted children (as long as the activity does not involve an interscholastic or community competitive activity).
- **Pre-defined enrollment criteria** (for example, tuition for participation): While programs can charge tuition, there can be no separate charge for the food service, and the Program should consider the effect that tuition charges may have on the ability of needy children to participate.

NOTE: Children who attend the program but do not participate in the enrichment cannot be denied a meal.

CEs concerned about the eligibility of their At-risk program should consult with their Education Service Center to determine if the Program will be allowable.

2250 Outside-School-Hours Care Center (OSHCC) Provisions

Outside-school-hours care centers must meet the following eligibility requirements:

- **Documentation:** Unlike At-risk programs, meals served at OSHCC programs are reimbursed based on income eligibility of the child's household; therefore, CEs operating an OSHCC must maintain approved eligibility applications for all enrolled children (free, reduced-price, and paid categories). See *Exemptions to HHSC Licensing Requirements* above to determine if a license should be provided.
- **Primary purpose:** OSHCC programs must operate with child care as the primary purpose. Programs offering only food service are not eligible.
- **Structured program:** OSHCCs must provide planned, supervised, and regularly scheduled activities at consistent days and times weekly. **TDA may request 1-2 week program schedules and operation times to verify compliance.**
- **Open participation:** OSHCCs must not restrict participation based on specific skills or interests.

  EXAMPLE: A Boys' Club cannot limit participation to only basketball or swimming team members.

Non-residential public and private nonprofit schools operating OSHCCs must meet these same requirements. Programs at schools must be distinct from any extracurricular programs organized primarily for scholastic, cultural, or athletic purposes.

2260 Adult Day Care Center Provisions

Independent and sponsored adult day care centers must meet the following eligibility requirements:

- **Service type:** Provide non-residential adult day care services, either directly or under the direction of an affiliated organization:
  - To functionally impaired adults or persons 60+ years old
  - In a group setting outside their homes or group living arrangements[6]
  - On a less than 24-hour basis.
- **Programming:** Provide a structured, comprehensive program with various health, social, and support services through individual plans of care.
  - **For functionally impaired adults:** Offer community-based group programming designed to meet needs through individual care plans

Individuals in *residential institutions* (e.g., nursing homes) are not eligible for CACFP benefits. While these individuals may attend an adult day care center, the center cannot claim reimbursement for meals served to them. Centers must maintain documentation verifying that institutionalized attendees do not receive CACFP-reimbursed meals.

[6] Group living arrangements refer to a private residence housing one or more individuals who are primarily responsible for their own care while maintaining community presence, though they may receive on-site monitoring. These communities may or may not receive federal, state, or local subsidies.

2270 Emergency Shelter Provisions

Emergency shelters are any facility whose primary purpose is to provide temporary shelter to homeless families with children. In most cases, an eligible shelter is one that combines overnight facilities with day programs, such as congregate meal services, for homeless children and their parents or guardians. Emergency shelters:

- Must provide temporary shelter and food services to homeless children; and
- Must meet applicable State and local health and safety standards.

Note that not all temporary living situations are eligible for CACFP. For example, transitional apartments, independent living facilities, single room occupancy (SRO) residences (such as SRO hotels that provide a small private room for one person), and housing units where families double or triple up with friends or relatives are generally not eligible for CACFP.

2280 Day Care Home Provider Provisions

Day care home providers must be licensed by state authorities to provide non-residential participant care. Providers are classified by Tier based on:

- The location of the day care home (area eligibility based on school or census data).
- The income of the provider.
- The household income of each participating child.

Based on the above information, sponsors must determine if a provider can receive Tier I or Tier II reimbursement. Refer to Section 4000 of the CACFP Handbook for more information on how provider Tier classification and reimbursement requirements.

2300 Ineligibility

CEs and sponsored sites/providers are ineligible to participate in the Program if:

- In the past seven years:
  - Any member of the organization's governing body, agent, consultant, volunteer, or employee was convicted of activity indicating lack of business integrity[7].
  - The organization or any principal had participation in a publicly-funded program terminated for violating program requirements, with eligibility not yet reinstated (*See Publicly Funded Programs below for more information*).
- The organization or any principal is currently on the National Disqualified List (NDL) or the Texas Excluded SFSP List (TEXSL).
- The organization fails to meet the eligibility requirements described in above sections.
- The organization does not meet any other criteria as determined by TDA.

[7] A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.

2400 Application Process and Requirements

New applicants to CACFP must apply before the October 1 – September 30 Program year in which they plan to begin. Current participants must submit an annual renewal application each year; renewal applications open July 1 in TDA's application system and must be completed by September 30.

NOTE: Previous participants must complete a new application if they previously withdrew or terminated participation at any time.

TDA will notify organizations of approval or denial within 30 calendar days of receiving a **complete** application. If an organization submits an incomplete or incorrect application, TDA will request the information needed to complete the application.

If approved, TDA will send a signed Permanent Agreement[8] and will not issue payments or reimbursement before the Agreement is executed.

NOTE: Organizations should notify TDA via TX-UNPS immediately if their mailing address has changed to ensure prompt delivery of the Agreement and other Program information.

2410 Getting Started

The following resources will help guide prospective CEs as they prepare their application in accordance with this section:

- **CACFP Handbook:** Use sections as a guide for the application process and for writing required management plan procedures. Example Sections:
  - Section 4000 explains the day-to-day Program operation requirements and instructions for adding sites/providers.
  - Section 7000 explains requirements for using, managing, and documenting Program funds.
- **Application support on SquareMeals.org**
  - Potential CEs can visit the New Applicants page.
  - Current CEs can visit the Renewing CEs page for continuing or discontinuing participation in the next Program Year.
- **Technical assistance:** TDA and the Education Service Centers (ESCs) can answer questions and assist throughout the application process. Contact TDA at:
  - 877-TEX MEAL (877-839-6325), or
  - Community.Ops@TexasAgriculture.gov

NOTE: The United States Department of Agriculture (USDA) does not allow organizations to hire outside sources to complete applications.

[8] A sample of the Permanent Agreement is located in the Forms table at: https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Administration-Forms

2411 New Contracting Entities

To begin the CACFP application process:

1. Visit the New Applicants page on Squaremeals at https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/New-Applicants
2. Complete the intake form at https://app.smartsheet.com/b/publish?EQBCT=3cf1fc67dd8a4a229125734fc9195e05 to provide TDA with information about your organization.
3. TDA will conduct the pre-eligibility check and provide a link via email to initiate the financial viability review process. **NOTE:** SFAs and organizations eligible for a streamlined review will not be required to complete the financial viability review.
4. Upon completion of the financial viability review, the organization will be provided a form to request access to TX-UNPS to complete the remainder of the review.
5. Complete all required entries and submit required items listed in the "Checklist" menu.

A CE operating multiple Program components (e.g., day care homes, child care centers, and adult care centers) must submit separate applications for centers and providers but will operate under a single agreement covering all administered programs.

2420 Management Plan

All potential CEs must submit a management plan as part of the application process. The management plan details the organization's administrative structure, including:

- **Organizational Chart:** Names and functions of all officers, agents, consultants, volunteers, and employees.
- **Program Staffing:** Staff assigned to Program management and monitoring.

The plan also provides TDA with information to assess management's ability to meet the regulatory performance standards required to effectively administer the program, and if applicable, operate the food service program in accordance with regulations.

TDA uses the management plan to determine how many sites/providers an organization can effectively sponsor. Factors that may affect this decision include:

- An organization's status as a new sponsor.
- The management plan's demonstration of limited sponsorship capacity.
- Program operation history suggesting limited management capability.

If TDA limits the number of sites/providers an organization may sponsor, any increase must receive written TDA approval before the organization can sponsor additional sites/providers.

2421 Performance Standards – Viability, Capability, Accountability (VCA)

New and renewing CEs must demonstrate in their management plan that they meet the following performance standards for viability, capability, and accountability, also known as VCA:

Financial Viability and Financial Management (V)	Administrative Capability (C)	Program Accountability (A)
The CE has the **financial resource**s to meet all Program requirements.	The CE has the **staffing and expertise** to meet all Program requirements.	The CE has **internal controls** in place to ensure the proper expenditure of Program funds for operations and administration.

Written procedures for each process in the management plan must be provided and must demonstrate that the organization will be capable of operating the Program. CEs unable to demonstrate VCA requirements will not be approved. If an application is denied, CEs have the right to appeal the decision. See Section 8000, *Denials, Terminations, and Appeals* for more information.

EXCEPTION: School Food Authorities (SFAs) currently participating in the NSLP/SBP, and current SFSP sponsors that are in good standing with TDA (not currently in the serious deficiency process for SFSP) are not required to demonstrate VCA when applying as a CACFP sponsor.

When providing procedures and processes to document VCA, CEs must include:

- **Who:** The person/position responsible for performing the task(s) and a backup staff member.
- **What:** A detailed description of the task necessary to fulfill the Program requirement.
- **When:** The frequency of the task (i.e., daily, weekly, monthly).
- **How:** A detailed description of how the task will be complete.
- **Where:** The location of the written procedures and processes to ensure each position responsible for Program tasks has access.

VCA at the Site/Provider Level
As noted above, sponsors are responsible for full administration of Program operations at sponsored sites/providers. That responsibility includes returning site/providers' unearned funds (i.e., disallowances) to TDA and overseeing the full correction of program violations committed by their sites/providers.

Thus, sponsors, before signing a Permanent Agreement with a site/provider, should evaluate sites/providers for VCA performance standards to ensure their capabilities for meeting Program requirements and returning unearned funds.

2421.1 Financial Viability and Financial Management

To demonstrate financial viability and financial management, the CE must document that it has adequate financial resources to operate the Program daily and adequate sources of funds to continue to pay employees and suppliers during temporary interruptions in Program payments and/or to pay debts when fiscal claims have been assessed against it.

An independent center may document this by providing:

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

Sponsoring organizations may document this by providing:

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

NOTE: At a minimum, new applicants must provide at least 12 months of bank statements demonstrating operational activities. For example, the bank statements must illustrate business income and expenses on a monthly basis.

CEs must demonstrate that budget costs funded from Program reimbursement are necessary, reasonable, and allowable. See *Budget* below for more information. Funds must be spent and accounted for in accordance with Program regulations and instructions. If TDA has conducted an administrative review, improper use and/or inadequate documentation of Program funds will inform financial viability determinations.

NOTE: TDA may request other documentation to evaluate financial viability.

2421.2 Administrative Capability

To demonstrate administrative capability, the CE must document appropriate and effective management practices necessary to meet Program requirements.

The CE's submitted management plan must demonstrate the following:

1. The CE must have an adequate number and type of qualified staff. The CE must document the required qualifications for staff designated to:
    a. Direct and manage the Program

b. Train staff and sites/providers
c. Determine participant/provider eligibility
d. (For day care home sponsors):
    - Identify Tier I homes; and
    - Notify tier II homes of reimbursement options.
e. Manage financials
f. Ensure compliance of meal counts, menus, and attendance records
g. Purchase (i.e., through procurement)
h. Maintain administrative and operational records
i. Enforce civil rights requirements
j. Prepare and submit claims
k. Monitor food service management company/vendor (if applicable).
l. If applicable, conduct the following sponsor administrative activities:
    - Reimburse sites/providers
    - Recruit sites/providers
    - Monitor sites/providers
    - Collect information (for example, meal counts) from sites/providers
m. For independent centers, conduct the following operational activities:
    - Plan menus
    - Prepare meals
    - Document meal production records
    - Serve meals
    - Take meal counts

CEs must ensure that the staff's actual qualifications align with those required at the time of hire. These qualifications must prove the capability of staff to perform job functions in ways that maintain Program compliance and integrity.

EXAMPLE: The person designated to <u>direct and manage the Program</u> might be the director. The director may have been required to have the following qualifications: a Bachelor's degree in childhood education and a business management minor or coursework; seven years of experience, including teaching; excellent verbal and written communication skills; and highly effective organizational, time-management, and multi-tasking skills.

2. Sponsors must have adequate monitoring staff to ensure site/provider Program compliance with regulations.
    a. CEs must submit written personnel policies and procedures for monitoring.
    b. Sponsors with large operations must complete item C. Administrative Capability #4 *Sponsoring Organization Monitoring Staff Information* in the Management Plan section of TX-UNPS.
        - Large operations are defined by:
            1) **Centers:** 25 or more sites

        2) **Day care home sponsors:** 50 or more providers
    - This method establishes the **minimum** number of monitoring staff that CEs need. If TDA determines that monitoring staff is insufficient at any time, it will require the CE to increase monitoring staff or decrease the number of sponsored sites/providers.
    - **NOTE:** Sponsors initially applying with fewer sites must amend their management plan and complete the above section if their sponsorship increases to the thresholds listed above.

3. Sponsors must submit written policies and procedures for:
    a. Assigning CACFP responsibilities and duties; and
    b. Ensuring compliance with civil rights requirements.

2421.3 Program Accountability

To demonstrate program accountability, the CE must:

- Ensure Program funds are spent to serve compliant meals and/or snacks.
- Ensure meal service quality and Program compliance.

CEs must submit written procedures with their management plan demonstrating:

- Adequate Program oversight by an independent governing board of directors.
    - See *Governing Body Awareness* below for guidance.
    - See Section 9000 *Terms, Definitions, and Acronyms,* for the definition of independent governing board of directors.
- A financial system with management controls, specified in writing, that ensure accurate tracking of the following:
    - All Program funds and property received, held, and disbursed;
    - All Program expenses incurred;
    - Accurately and timely claims processing; and
    - System safeguards and controls to prevent and detect improper financial activities by employees.
- Appropriate recordkeeping to document Program compliance in:
    - Budgets
    - Accounting records
    - Approved budget revisions
    - Training plans
    - Monitoring plans
- Compliance with:
    - CACFP meal patterns

- Civil rights requirements
- Recordkeeping guidelines (i.e., complete and maintained)
- Reimbursable claims (e.g., claims are submitted only for eligible meals)

2422 Governing Body Awareness

CEs must submit documentation that their independent governing board of directors acknowledges the responsibilities and liabilities related to Program participation.[9] A Governing Body Awareness (GBA) form is available at http://www.squaremeals.org for CEs to use in submitting this information.

Acceptable documentation includes:

- Meeting minutes documenting the governing body's decision to participate in the Program, including:
  - Meeting date
  - Items discussed, including participation decision (i.e., begin or continue)
  - Names of present members
  - Names of voting members
  - Secretary of the board's signature
- Written declarations from each member stating awareness of Program responsibilities and liabilities. Board members absent from the meeting must still submit written declarations

Additionally, for each board member (including owners of for-profit organizations), CEs must submit the following information through the Board of Directors screen on TX-UNPS:

- Full legal name
- Complete home mailing address
- Complete home street address, if different from mailing address
- Phone number
- Date of birth
- Relationship with any other member or employee
- If applicable, compensation for services to the organization

This must be submitted with the application and whenever changes occur in membership (e.g., a new member) or member information (e.g., a change in current member's address).

[9] Public institutions (governmental, military, or American Indian reservations) are exempt from the Governing Body Awareness requirement.

2423 Publicly Funded Programs

CEs must provide:

- A list of publicly funded programs (any program or grant funded by federal, state, or local government) they currently participate in and have participated in during the past seven years.
- Certification that, during the past seven years, neither the organization nor any principals have been declared ineligible to participate in any other publicly funded program due to violation of program requirements.
  - If the organization or any principal was previously declared ineligible, the organization must submit documentation demonstrating that they were later fully reinstated or determined eligible for the program, including repayment of any funds owed.

2424 Free and Reduced-Price Policy Statement

CEs that do not charge separately for meals shall agree to the following policy:

- The CE representative(s) applying for Program participation accepts responsibility for and assures that the CE:
  - Will not physically segregate nor discriminate against any person receiving free or reduced-price meal benefits and will protect these individuals' anonymity; and
  - Will serve the same meals or snacks to all Program participants at no separate charge, regardless of race, color, national origin, sex, age, or disability, with no discrimination during the food service.

By agreeing to this statement, the CE assures TDA it will uniformly implement this free and reduced-price policy statement across all CACFP sites/providers under its jurisdiction. This policy is permanent and remains in effect until modified by TDA.

For CEs charging separately for meals: CEs must complete the *Free and Reduced-Price Meal Policy Statement* (H4515) and maintain this document on file for review during an Administrative Review.

2430 Budget

CEs must submit an annual budget for the following estimated expenses (**note that categories may vary based on whether the CE is a sponsor, as well as the types of sites being sponsored**):

- Labor, including fringe benefits[10]
- Food (if applicable)
- Facilities and space

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[10] CEs must submit a compensation policy when including labor costs in budgets. This policy should include information required by *FNS Instruction 796-2 Financial Management – CACFP*.

- Supplies and equipment
- Purchased services
- Media costs
- Financial costs
- Sponsoring organization costs
- Indirect costs
- Contracted services
- Other expenses (e.g., printing or office supplies)

TDA reviews the proposed budget to ensure:

- The CE will not operate CACFP at a profit.
- Individual line items in the budget are:
  - **Approved** uses of Program funds
  - **Reasonable** costs for items or services, which are determined by:
    - Program size, personnel duties, and community economic conditions
    - Sample budget data from other organizations
  - **Necessary** for Program operation.

TDA may ask CEs to revise budgets or provide additional information if the submitted budget does not meet the above requirements (e.g., food cost budget appears low or paper supplies cost appears high).

NOTE: The approved budget includes potential costs authorized by TDA based on the CE's submission. **Approval does not guarantee reimbursement for the full amount of each budgeted item**. Rather, it identifies costs that may be allowable and establishes reasonable spending limits for each.

CEs may submit budget amendments if approved budget levels prove inadequate or TDA determines an amendment is necessary. Each amended budget item requires approval by TDA.

Significant changes that require an amendment to the approved budget include, but are not limited to, the following:

- A single line-item amount that increases or decreases by at least 20%
- The addition of a new line item in the operation and/or administrative budget(s)
- Any change to the overall budget that increases or decreases the overall budget amount by 20%
- Moving more than 10% of the **total budget** from one line item to another line item amount, even if the overall total budget amount remains the same. **NOTE:** If moving less than 10% to another line item, the CE must still notify TDA of the realignment.

TDA **will not** approve retroactive budget amendments. All costs in the budget require prior approval before expenditure.

If budgeted costs exceed expected Program reimbursement, the CE must disclose:

- Funding source(s) to support additional expenses, and/or
- Funding/income source(s) designated for nonprofit food service[11]

2431 Costs Requiring Specific Prior Written Approval (SPWA)

CEs cannot include some item costs into the budget without receiving specific prior written approval (SPWA) from TDA or FNS Regional Office. CEs may refer to FNS Instruction 796-2 Financial Management – Child and Adult Care Food Program, Exhibit I to determine what costs require SPWA. To request approval, CEs:

1. Select "Request for SWPA" under TX-UNPS Applications tab.
2. Select "Create a Request", follow prompts, and submit all supporting documentation.
3. Upon submission, TDA will send an automated email either approving, denying, or requesting correction to the request. The request will be closed if it is determined that the cost does not require SPWA.

If approved to purchase an item, CEs must amend their budget by adding the item to the appropriate cost category. The approved SPWA ID may be selected within the Budget Detail, which will populate the line item with the approved SPWA amount. Failure to amend the budget before using Program funds will result in the cost being disallowed, requiring the CE to repay the nonprofit food service.

SPWA is only valid for the Program year in which it was obtained. CEs must request SPWA and submit supporting documentation annually for costs requiring written approval. However, if the specific prior written approval is for a contractual service/item, then an SPWA is not required every year that the contract is in place. During annual budget submittal, the CE will be able to note within the system that the current item has already been approved. Note that if the SPWA is for a monthly service contract that must be renewed annually, the CE will need to submit an SPWA for that service each year. If the approved SPWA for a contracted service is selected within the Budget Detail, the contract terms will populate to illustrate in what year the contract is in.

2432 Estimated Carryover of Administrative Reimbursement (Day Care Home Sponsors Only)

Day care home sponsors may carry over up to 10% of the total administrative reimbursement received in the current Program year into the next Program year. CEs must account for this residual amount in their annual budget. However, because this determination for the next Program year is based on administrative claims paid and administrative expenses incurred in the current year, and because the annual budget submission deadline is before the end of the Program year, CEs **must estimate** this amount when preparing the budget.

[11] Money designated specifically for nonprofit food service operations must be used solely for that purpose and accounted for according to Program requirements. These funds are classified as "restricted funds."

The budget for the next Program year must reflect:

- Total anticipated administrative reimbursement for current Program year (for example, $150,000).
- Estimated total administrative expenses for the current Program year (for example, $100,000)
- The maximum estimated carryover based on 10% of the anticipated reimbursement ($15,000).
- Estimated amount over the allowed carryover to be returned to TDA using the following calculation: Anticipated Reimbursement ($150,000) - Estimated Expenses ($100,000) - maximum estimated carryover (15,000) = $35,000.

TDA notifies sponsors after the end of each Program Year of the **actual** maximum amount available that can be carried over based on the **actual** administrative expenses reported monthly throughout the Program year and the administrative reimbursement received. CEs must submit an amended budget after the Program year close-out to reflect the actual residual amount to be carried over.

NOTE: The CE may choose to carry over less than 10% of administrative reimbursement and will note the actual amount in its final budget.

Refer to Section 7000, *Financial Management*, for more information on administrative reimbursement for day care home sponsors.

2433 Budget Guidance

- *Section 7000 Financial Management* and *FNS Instruction 796-2 Financial Management – Child and Adult Care Food Program* provides budget guidance, including guidelines on:
    - Approval levels
    - Allowable and unallowable costs
    - Costs requiring SPWA
- Compensation Tools for CACFP can help CEs determine reasonable salary budgets for Program staff (found on https://www.squaremeals.org/Programs/Child-and-Adult-Care-Food-Program)
    - These tools use North American Industry Classification System and Bureau of Labor Statistics (i.e., "Social Assistance" industry type and jobs) data to determine the maximum salary range for Program positions.

2440 Unique Entity Identifier Number

A Unique Entity Identifier (UEI) is required for all entities doing business with the federal government. All CEs must complete the following steps:

1. Register and obtain a UEI from SAM.gov

2. Once your organization has a UEI, please email the number to CACFP.bops@texasagriculture.gov

For more information, go to SAM.gov. Please note that TDA does not administer the SAM.gov website. All requests for technical help should be directed to SAM.gov. Note also that the UEI number will not replace the Employer Identification Number (EIN).

2450 Required Site/Provider Information

CEs must submit information about their site/providers, including:

- **Identifying information:** name, address, phone number.
    - Day care home provider address information must include residential street address or rural route and box number. TDA will only accept post office box numbers if accompanied by specific, detailed directions to the provider's residence.
- **Qualifying Information:**
    - **Sites/Centers:** Licensure/certification (or license exemption), tax-exemption (if applicable), percentage of Title XIX and/or XX/free or reduced-price eligibility (if for-profit), and area eligibility (if At-risk).
    - **Day care home providers**: Licensure/registration[12]

      NOTE: See *Licensing and Registration* above for licensing documentation requirements.
- **Operational Information:**
    - **Sites/Centers**: Meal preparation method, meal service types/times, days/hours of operation, number of enrolled participants in each eligibility category (At-risk excluded)
    - **Day care home providers**: Meal service types/times, days/hours of operation, number of non-residential children enrolled, and provider's choice for distributing income applications and receiving reimbursement
- **Approval to Operate (At-risk only):** All non-ISD organizations submitting approval for At-risk sites on school campuses must provide a signed agreement with the appropriate district office/official for each site that includes:
    - A confirmation of permission to operate the Program on campus
    - All school campuses/sites submitted for approval
    - Programs allowed on each campus/site
    - Agreement's effective date

      NOTE: If a non-ISD organization proposes to provide the same services already offered by a school district, the school district will receive priority according to program rules and regulations.

[12] Eligible providers must be licensed or registered by the Texas Health and Human Services agency (HHSC). Note that "listed" homes do not meet the minimum child care standards for CACFP and are ineligible to participate.

2460 Business Office Documentation and Requirements

CEs must provide the complete physical address of primary business office where:

- Program records will be maintained.
- All essential Program management functions (e.g., review and approval of menus/meal counts, claims processing) will be performed.

If a CE's primary business office location changes, the CE must:

- Submit changes to their application/management plan, including budget (if applicable).
- As applicable, submit a new license if their primary business office is also a licensed center.

Records must be available during normal business hours (minimum 8:00 a.m. to 5:00 p.m., Monday through Friday). A CE representative must be:

- Available to meet with TDA staff with no more than four hours' notice during normal business hours.
- Available by telephone to sites/providers and TDA during normal business hours
    - Voice mail service is required.
    - 24-hour response time is required to sites and TDA who leave messages.

2470 Pre-Award Civil Rights Compliance Review

New CEs must submit information to verify compliance with applicable nondiscrimination laws using the *Pre-Award Civil Rights Compliance Review* form (located in "Download Forms" in TX-UNPS). See Section 6000, *Civil Rights,* for additional information.

2480 Financial Requirements and Requests

2481 Audit Compliance

CEs must complete the *Annual Audit Form* in TX-UNPS certifying that it will obtain an audit if it meets the single audit or TDA for-profit audit requirements. See Section 5000 *Visits, Reviews, and Audits,* for more information.

2482 Advance Payments

An advance payment is financial assistance made available to a CE for Program costs before they are incurred. The advance is based on TDA or CE **estimates** of future reimbursements and must be repaid.

Advance payments are *not required* for Program participation; CEs should carefully consider the need before making a request. Overestimating or fluctuating participation may create debt for unearned advances at program year-end, and failure to return unearned advance payments may result in adverse actions, including serious deficiency process placement, permanent agreement termination, and criminal prosecution referral.

2482.1 Requesting or Discontinuing Advances

To request advance payments, CEs should submit their application and required documentation at least 60 days before the first day of desired participation month.

CEs may request to discontinue advance payments by submitting a written request that includes the month to stop advances. CEs should submit requests at least one month in advance to ensure timely processing.

CEs should submit written requests via:

- Email to CACFP.Bops@TexasAgriculture.gov;
- Mail to the Texas Department of Agriculture, Attn: Business Operations – Advances, P.O. Box 12847, Austin, TX 78711; or
- Overnight delivery to the Texas Department of Agriculture, Attn: Business Operations – Advances, 1700 N. Congress Ave., Austin, TX 78701.

2482.2 Repayment Process

TDA will recoup advances for the current Program year from July and August claims. If those funds are insufficient, TDA will continue recouping from subsequent claims. TDA **will not** issue advances:

- For the next Program year until the CE pays all outstanding advances; or
- Advances for September and October.

2483 Performance Bond

Non-governmental sponsoring organizations with less than 3 years of successful administrative and financial history within the past 7 years must submit a performance bond with their application. Performance bonds protect against misuse of federal funding.

EXCEPTION: Current SFSP sponsors in good standing (i.e., not currently in the serious deficiency process) are not required to submit a performance bond.

The performance bond must:

- Be submitted with the initial application.
- Be from an approved surety company listed in the most recent publication of the U.S. Treasure Department's Circular 570.
- **For renewal applications:** Be submitted with a Continuation Certification (if applicable) until TDA grants relief.

CEs can find an informational letter, a standard bond form, and instructions for completing the form in the "Download Forms" section in TX-UNPS and the CACFP Administration/Forms section of SquareMeals.org. CEs will present the bond form to the surety company and complete it using the instructions.

2483.1 Amount of a Performance Bond

The minimum amount of the performance bond is determined using the following formula:

(Total enrollment) x (current total free reimbursement rate[13] for each meal type) **x 90**

	Center Example	Provider Example	At-risk Sponsor Example
	A CE operates two sites with combined enrollment of 50 children. Both sites claim breakfast ($1.71 free reimbursement rate), snack ($0.86 rate), and lunch ($3.16 rate).	A CE sponsors two providers with combined enrollment of 12 children. Both providers claim breakfast ($1.31 Tier I reimbursement rate), snack ($0.73 rate), and lunch ($2.46 rate).	A sponsor operates two centers with combined enrollment of 12 children. Both sites claim snack ($0.86 free reimbursement rate) and supper ($3.16 rate).
Total Enrollment	50 children	12 children	50 children
Current Total Free/Tier I Rate for Each Meal Type	$1.71 + $0.86 + $3.16 = $5.73	$1.31 + $0.73 + $2.46 = $4.50	$0.86 + $3.16 = $4.02
Formula	50 x $5.73 x 90	12 x $4.50 x 90	50 x $4.02 x 90
Minimum amount of initial bond	**$25,785**	**$4,860**	**$18,090**

2483.2 Increasing or Decreasing Bond Amount

CEs must increase the bond amount if:

- Enrollment or reimbursement rates increases by 50% or more of original anticipated amounts; and
- Each subsequent 50% increase from the time the bond was last increased.

CEs must submit the increased bond amount to TDA within 45 days of the increase in enrollment or reimbursement rate.

TDA may approve written requests to decrease the bond amount if:

- A CE experiences significant decreases in enrollment or reimbursement rates; or
- A CE operates **all sites/providers** two days per week or less. In their written requests, CEs must include:
    - The number of sites/providers operated

[13] **NOTE:** The examples above use sample USDA reimbursement rates. CEs must use current reimbursement rates for actual performance bond calculations.

- The number of operational days per week for each site/provider
- The meal type(s) served by each site/provider
- Enrollment at each site/provider, or if no enrollment is required, the number of daily participants the organization anticipates serving at each site

2483.3 Relief from Bonding Requirement

CEs required to obtain a performance bond may request relief after demonstrating three years of successful administrative and financial history by submitting a written request to TDA. Successful Program participation will be considered when determining approval or denial of the request.

NOTE: A CE's relief request will be denied if it has any outstanding financial obligation to TDA.

CEs should submit written requests via:

- Email to CACFP.Bops@TexasAgriculture.gov;
- Mail to the Texas Department of Agriculture, Attn: Business Operations – Applications, P.O. Box 12847, Austin, TX 78711; or
- Overnight delivery to the Texas Department of Agriculture, Attn: Business Operations – Applications, 1700 N. Congress Ave., Austin, TX 78701.

2483.4 Cost of Obtaining a Performance Bond

The following performance bond costs are allowable if included in the CE's approved budget:

- Initial cost to obtain if incurred in the same month as participation approval.
- Maintenance and renewal for continued CACFP participation.

2490 Provider Appeal Procedures (Day Care Home Sponsors Only)

Day care home sponsors must develop and submit to TDA appeal procedures that:

- Give providers an opportunity to appeal adverse action(s) negatively impacting their CACFP participation.
- Apply to all of its sponsored providers.
- When changed, must be submitted to TDA prior to implementation.

The appeal official(s) must be independent and impartial (i.e., no involvement in related adverse action(s) or financial interest in appeal outcome). Although the appeal official(s) may be an employee or board member of the CE's organization, he/she must not have been involved in the action that is the subject of the appeal or have direct personal or financial interest in the outcome of the appeal.

See Section 8000, *Denials, Terminations, and Appeals,* for additional information.

2500 Additional Information

2510 Disqualification

Organizations and individuals on the following lists are not eligible to participate as CEs, sites, day care homes, or employees performing Program activities:

- **National Disqualified List (NDL):** USDA-maintained list of organizations and individuals disqualified from CACFP
- **Texas Excluded SFSP List (TEXSL):** TDA-maintained list of organizations and individuals excluded from SFSP

Additionally, listed individuals may not hold any management (principal) positions within an organization, regardless of Program activity involvement. Management positions include board members, directors, owners, co-owners, and partners.

Organizations and individuals remain on lists until seven years after disqualification **and** all debts related to serious deficiencies have been repaid. Disqualified CEs with all debts paid may request for an early removal from these lists; TDA, in consultation with USDA, will determine if all serious deficiencies leading to disqualification have been corrected.

CEs must check these lists:

- Before hiring employees for management positions or CACFP activities;
- Before signing agreements with sites/providers; and
- Periodically to ensure staff and sites/providers were not added after hiring or sponsorship began.

Lists can be accessed through the following:

- CEs can request NDL access at https://snp.fns.usda.gov/ndlweb.Welcome.action
- CEs can access USDA's NDL and TDA's TEXSL in the "Download Forms" section in TX-UNPS and the "Child and Adult Care Food Program" page of SquareMeals.org.

2520 Background Checks

TDA may conduct background checks on principals during the application process or at any time during Program participation to identify disqualifying criminal history. Disqualifying criminal convictions in the seven years before the application or background check dates that indicate a lack of business integrity include:

- Fraud
- Anti-trust violations
- Embezzlement
- Theft
- Forgery
- Bribery

- Falsification or destruction of records
- Making false statements
- Receiving stolen property
- Making false claims
- Obstructing justice

Organizations must certify to the truth of information submitted with Program applications. Failure to disclose qualifying criminal history will result in serious deficiency process placement. See Section 10000, *Serious Deficiency,* for details.

2530 Required Identification

For each principal, organizations must submit:

- A government-issued photo ID
- Proof of residential mailing address

CEs must submit updated information for new principal(s) to TDA if organizational leadership changes during Program participation.

Sponsoring CEs must obtain and maintain this documentation for principals of sponsored sites and make them available to TDA upon request.

EXCEPTION: Public institutions (governmental, military, or American Indian reservations) are exempt from submission of these documents.

2531 Acceptable Government-Issued IDs

- Driver's license or personal identification card issued by Texas Department of Public Safety or another state's agency (can be expired)
- Military identification
- Valid US Passport
- Other TDA-approved documentation

2532 Acceptable Proofs of Residence

- Driver's license
- Official mail addressed to individual from a utility provider, government agency, or bank
- Current voter registration card
- Current lease executed by individual
- Other TDA-approved documentation

2540 Amendments

A CE's application, including its management plan, and signed permanent agreement, can only be amended with TDA's approval. There are two types of amendments: universal and contracting-entity specific.

2541 Universal Amendments

TDA initiates universal amendments to modify permanent agreement terms and conditions for all CEs. These amendments may be specific to a particular program, regardless of a CE's participation in the program.

CEs who fail to return universal amendments can be placed in the serious deficiency process. See Section 10000, *Serious Deficiency,* for more information.

2542 Contracting Entity-Specific Amendments

CE-specific amendments are limited to:

- Adding a TDA-administered program.
- Deleting a TDA-administered program.
- Name changes without:
    - Affecting an organization's EIN under existing permanent agreement; or
    - Changing legal identity documentation under existing permanent agreement.

TDA uses an amendment form to update participation status and/or organization names. Once TDA receives and approves amendment forms, it will return a countersigned copy to the CE for recordkeeping.

Program Addition Example	Name Change Example
If a CE is approved for SFSP and applies for CACFP, it must complete an amendment form. The CE should sign and return the form to TDA.	If a CE changes its organization's name without changing its EIN or legal identity, TDA will send an amendment form with the updated name, which the CE should sign and return.

CE-specific amendments can be initiated by TDA or the CE. CEs can withdraw amendments by notifying TDA in writing. CEs who fail to return a CE-specific amendment or provide withdrawal notification to TDA can be placed in the serious deficiency process. See Section 10000, *Serious Deficiency,* for more information.

2543 Application or Management Plan Changes

CEs must submit any changes to their application or management plan as they occur, including changes to the budget that do not include a change to the total budget amount.

NOTES:

- If a CE fails to properly request changes in advance, claims for reimbursement may be delayed or negatively affected.

- CEs without internet/TX-UNPS access may contact TDA for paper versions that can be mailed or emailed to TDA.

When requesting changes to the application or management plan, CEs must adhere to the following requirements:

- Request application, management plan, or site/provider application (as applicable) changes through TX-UNPS.
- Upload, mail, or email additional information if needed.
- As applicable, maintain completed site/provider application in TX-UNPS for each change submitted on behalf of unaffiliated sites or providers.
- Provide a copy to sites/providers, as applicable.

NOTE: CEs can amend applications for unaffiliated sites/providers without obtaining the site representative's signature.

2600 Training

Current and potential CEs must attend mandatory CACFP training. Training certificates:

- Are provided to the CE after successful completion by a representative.
- Are non-transferrable across organizations.
- Must be retained with Program records.

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

2610 New Contracting Entity Training

A CE representative must complete *CACFP Program Application for New CEs* before application approval and permanent agreement execution. Access and complete applicable training at SquareMeals.org: https://squaremeals.org/FandN-Resources/Training/CACFP-Training

The CE representative will receive a certificate after completing the training; the certificate will be requested as part of the CE's financial viability application review. If the representative fails to complete the training, he or she may enroll in the next regularly scheduled training. Applications will not be approved without completed training.

TDA recommends that the representative(s) who receive training are owners, directors, or high-ranking officials who can train others, including sites/providers, on Program responsibilities.

The following table illustrates the special circumstances in which an organization that had previously participated in CACFP may be required to take the introductory training before continuing participation:

If …	**Then …**
A previous participant withdrew from the program	*CACFP Program Application for New CEs* is mandatory prior to resuming participation.
An organization experiences a complete legal identity *and* principal staff change	*CACFP Program Application for New CEs* is mandatory prior to resuming participation.
An organization's name changes, but Employer's Identification Number (EIN), legal identity, and principal staff did not change	*CACFP Program Application for New CEs* is **not** required.
An organization experiences a complete legal identity change, but principal staff did not change	*CACFP Program Application for New CEs* is **not** required, unless recommended by TDA.

NOTE: Training is valid for one year from completion date. An organization that does not submit its application to TDA within this timeframe must repeat the training.

2620 Ongoing Training Requirements

2621 Mandatory Contracting Entity Training

After application approval, TDA may require CE representatives to attend mandatory training sessions during each program year. TDA will notify CEs of any required training. See Section 4000 of the CACFP handbook for annual training requirements.

2622 Staff Training

CEs must train all staff before they assume any Program duties and each Program year after. CEs must document training procedures in their management plan, maintain records of all training activities, and retain this documentation.

2700 Visit Prior to Approval

TDA conducts visits to potential CACFP CEs[14] prior to application approval and permanent agreement execution to:

- Provide technical assistance.
- Assess ability to manage and operate Program activities.
- Verify submitted application and supporting documents.

[14] TDA will not conduct a visit prior to approval for SFAs or SFSP sponsors in good standing that are currently operating SFSP during the summer months.

- Verify resources dedicated to Program management.
- If applicable (for example, at an independent center), verify ability to provide a meal service that meets Program requirements.
- If applicable, using existing Program documentation, determine whether meals served in the month prior to application approval qualify for claim reimbursement.

Inconsistencies between TDA observations and any submitted information could result in application denial and/or placement in the serious deficiency process.

2800 Application Renewal

The CACFP Program year corresponds with the federal fiscal year, October 1 - September 30. A CE is required to submit an application each year. However, the information provided on certain checklist items is routinely valid for a longer period. As a result, TDA may retain documents from a prior Program year, thereby reducing the number of items that a CE must submit for additional program years.

Information that rolls over each year must be reviewed and updated by the CE as needed, and any information that does not roll over will need to be re-entered. Failure to complete all items will delay the renewal process and could result in termination.

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

CEs that do not have access to the Internet or to TX-UNPS may submit the renewal application via manual methods. Start by requesting a paper copy from TDA at 877-TEX MEAL (877-8396325). Complete the paper forms and mail or email them to TDA. Please note that submitting a renewal via paper forms may delay the renewal process.

Section 3000
Program Agreement

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3000
Program Agreement

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

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

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

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

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

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

3100 Program Requirements

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

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

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

3110 Conflicts of Interest

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

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

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

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

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

3120 Reimbursable Meals

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

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

3130 Nonprofit Food Service

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

3140 Program Management

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3150 Waiver of Program Requirements

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

The written request must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3160 Program Documentation

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

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

3200 Program Payments and USDA Foods

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

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

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

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

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

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

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

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

3210 Food Service Payments

3211 Reimbursement for Meals

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

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

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

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

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

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

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

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

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

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

Returned food service payments must be sent to:

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

3212 Disbursing Reimbursement to Sponsored Sites

Only applies to CEs that sponsor unaffiliated sites.

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

3220 Advance Payments

3221 Eligibility

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

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

3222 Processing and Receipt Deadlines

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

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

3223 Determining the Amount of Advance Payment

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

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

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

3224 Disbursing Advance Payments to Sponsored Sites

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

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

3225 Recouping Advance Payments

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

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

3226 Discontinuing Advance Payments

Discontinuation of advance payments could occur for the following reasons:

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

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

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

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

3230 Earned Interest

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

3240 USDA Foods

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

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

3241 USDA Foods or Cash-in-lieu

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

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

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

3242 Cash-in-lieu

CACFP CEs are:

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

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

3300 Technical Assistance

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

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

Section 4100
Meal Service

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release will be highlighted in yellow within this section.

Please note the following regarding updates on sugar limits and medical statements (highlighted in yellow below):

- *USDA has updated product-based sugar limits for breakfast cereals and yogurts (including soy yogurts) from total sugars to added sugars, and this handbook reflects regulations that will apply beginning October 1, 2025. Through September 30, 2025, follow these existing limits:*
    - *Serve breakfast cereals containing no more than 6 grams of total sugars per dry ounce.*
    - *Serve dairy and soy yogurts containing no more than 23 grams of total sugars per 6 ounces.*

  NOTE: *The meal pattern charts in this section contain footnotes that reflect these updates and implementation dates.*

- *USDA has updated guidance on who may write medical statements for meal modifications for participants with disabilities. By October 1, 2025, CEs and sites/providers* ***must*** *also accept medical statements signed by a registered dietitian.*

Edit Date	Content/Purpose	Subsection(s)
May 2025	Isolated Section 4100 into its own section that is identical in all four handbooks.	N/A
	Reorganized information throughout the section for clarity	Throughout
	Changed term "food components" to "meal components" to align with July 1, 2024 final ruling	
	Changed term “beans and peas (legumes)” to “beans, peas, and lentils” to align with July 1, 2024 final ruling	
	Updated product-based sugar limits for breakfast cereals and yogurts (including soy yogurts) from total sugars to added sugars to align with July 1, 2024 final ruling	

	Updated guidance on who may write medical statements for meal modifications for participants with disabilities to align with July 1, 2024 final ruling	Throughout
4121 Infant Meal Pattern		
May 2025	Defined and expanded on feeding infants "on demand" aligned with USDA Memo CACFP 06-2025	4121.2
	Noted the delay of solid foods until around 6 months with particular AAP guidance against introducing solid foods before 4 months of age aligned with USDA Memo CACFP 06-2025	
	Outlined safety guidelines for purchasing, preparing, and storing infant formula aligned with USDA Memo CACFP 06-2025	4121.3
	Outlined and updated safety guidelines (according to AAP recommendations) for storing expressed breast milk aligned with USDA Memo CACFP 06-2025	
	Updated medical exceptions to breast milk or iron-fortified formulas aligned with USDA Memo CACFP 06-2025	
	Expanded on guidelines and safety recommendations related to feeding infants fruits and vegetables aligned with USDA Memo CACFP 06-2025	4121.4
	Updated guidance on feeding meat alternates to infants, including the addition of soy yogurts, natural or processed cheeses, tofu, and tempeh, aligned with USDA Memo CACFP 06-2025	
	Updated restrictions on serving processed meats and poultry to infants aligned with USDA Memo CACFP 06-2025	
	Clarified grains crediting for infants aligned with USDA Memo CACFP 06-2025	
	Clarified guidelines for feeding combination foods to infants aligned with USDA Memo CACFP 06-2025	
	Added option for sites serving primarily American Indian participants to substitute certain vegetables for grains to align with July 1, 2024 final ruling	
4122 Meal Pattern for Children One Year or Older and Adults		
May 2025	Updated meal pattern charts to reflect current regulation, including the use of ounce equivalents as a measurement for meat/meat alternates	4122
	Noted meats/meat alternates may be offered in place of the entire grains requirement up to 3 times per week at breakfast for children one year or older and adults aligned with July 1, 2024 final ruling	4122.1, 4122.7, 4122.8
	Refined guidance on serving milk to participants, including clarification on serving breast milk to children of any age and the addition of fluid milk flexibilities for adult participants, aligned with USDA Memo 01-2025	4122.4

	Added additional guidance on measuring grains in ounce equivalents aligned with USDA Memo CACFP 05-2025	4122.7
	Added official FNS definition of whole grain-rich items; clarified identifying whole grain-rich cereals on WIC lists; and updated guidance on identifying whole grains, enriched grains, brans, germs, and non-creditable grains or flours to align with July 1, 2024 final ruling and USDA Memo CACFP 05-2025	
	Updated standard and rounding methods for calculating sugar to align with new added sugar limits to align with July 1, 2024 final ruling	
	Added option for sites serving primarily American Indian participants to substitute certain vegetables for grains to align with July 1, 2024 final ruling	
	Expanded nuts and seeds crediting to allow for the full meats/meat alternates component; added site/provider considerations for serving to align with July 1, 2024 final ruling	4122.8
	Added documentation requirements for commercially prepared tofu products creditable as a meat alternate to align with USDA Memo CACFP 02-2024.	
	Updated non-creditable noncommercial or commercial standardized yogurt products list with drinkable yogurt products to align with updated 7 CFR 226.20 Requirements	
	Clarified requirements and updated guidance for plain potable water availability to align with July 1, 2024 final ruling	4123
	Clarified guidance on serving water to infants to emphasize healthcare provider consultation and align with USDA's Infant Nutrition & Feeding Guide.	
	Updated guidance on crediting commercial smoothies toward fluid milk requirement to align with guidance from USDA Memo CACFP 17-2019	4124
4130 Meal Variations		
May 2025	Distinguished between disability and non-disability food modification requests, including fluid milk substitutes for non-disability reasons, to align with July 1, 2024 final ruling.	4132, 4133
	Updated nutrient requirements for fluid milk substitutes and clarified fluid milk modifications for participants with disabilities (including lactose intolerance) to align with July 1, 2024 final ruling	4134
Other Subsection Updates		
May 2025	Updated best practice to limit flavored milk to no more than 10 grams of added sugars per 8 fluid ounces, aligning with updated NSLP and SBP limits.	4111

May 2025	Clarified guidance on Approved Meal Types to include breast milk provided by parents/guardians for children of any age, and breast milk or creditable infant formula for infants, aligning with existing regulations.	4114
	Clarified guidance on OVS implementation (allowable settings and required meal components) to align with CACFP 02-2025.	4144
	Updated guidelines for using CN labels as documentation, including interpretation of label authorization/approval dates and documenting watermarked CN labels, to align with CACFP 04-2025.	4166
	Refined guidelines for using Product Formulation Statements as documentation aligned with CACFP 04-2025 and USDA's Tips for Evaluating a Manufacturer's Product Formulation Statement.	4167
	Updated guidance on at-risk centers allowing children to take an item offsite to eat at a later time, aligned with CACFP 10-2017.	4168
	Clarified requirements on FSMC contract monitoring and requirements for prcocuring an FSMC.	4172

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4100
Meal Service

Contracting Entities (CEs) and sites/providers must comply with the applicable Child and Adult Care Food Program requirements related to meal patterns and meal service to receive reimbursement for meals and snacks. A reimbursable meal or snack is one that meets the meal pattern requirements (contains all required components in at least the minimum required portion sizes) and is served to an eligible participant.

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

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

4110 Planning of Meal Service

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

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

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

Links to training and resources to assist CEs in planning and preparing healthy meals can be found at https://squaremeals.org/FandN-Resources/Training/CACFP-Training. On this page, TDA also provides information on trainings provided by Education Service Centers (ESCs) on topics such as menu planning, feeding infants, planning nutritious snacks, and kitchen math.

4111 Best Practices

The following recommendations are best practices when serving meals to children one year or older and adults and not required for Program compliance. The use of these best practices is optional and intended to further strengthen the nutritional quality of the meals served.

- Vegetables and Fruits
    - Make at least one of the two required components of a snack a vegetable or a fruit.

- Serve a variety of fruits and choose whole fruits (fresh, canned, frozen, or dried) more often than juice.
- Provide at least one serving each of dark green vegetables; red and orange vegetables; beans, peas, and lentils; starchy vegetables; and other vegetables once per week.

- Grains
  - Provide at least two servings of whole grain-rich grains per day.
  - As applicable, serve whole grain-rich foods to infants to promote acceptance of those foods later in life.
- Meat and Meat Alternates
  - Serve only lean meats, nuts, and legumes.
  - Limit serving processed meats to no more than one serving per week.
  - Serve only natural cheeses and choose low-fat or reduced-fat cheeses.
  - Serve only low-fat or fat-free yogurt.
- Fluid Milk
  - Serve only unflavored milk to all participants.
  - If flavored milk is served to children 6 years old and older or adult participants, it must be low-fat (1%) milk or fat-free (skim) milk.
    - The CACFP does not have an added sugars limit for flavored milk. As a best practice, if flavored milk is served to children 6 years old and older, or adults, use the Nutrition Facts Label to select and serve flavored milk that contains no more than 10 grams of added sugars per 8 fluid ounces, or the flavored milk with the lowest amount of sugar if flavored milk within this sugar limit is not available.
- Additionally,
  - Incorporate seasonal and locally produced foods into meals.
  - Limit serving purchased pre-fried foods to no more than one serving per week.
  - Avoid serving non-creditable foods that are sources of added sugars, such as sweet toppings (e.g., honey, jam, syrup), mix-in ingredients sold with yogurt (e.g., honey, candy or cookie pieces), and sugar-sweetened beverages (e.g., fruit drinks or sodas).
  - Offer and make water available to participants upon their request throughout the day.

4112 Cycle Menus

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

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

- Reducing menu planning time
  - The cycle menu is planned weeks in advance thereby cutting menu planning time.
- Streamlining purchasing procedures
  - CEs and sites/providers know in advance what items are needed and where they can obtain those items more efficiently and at a cost savings.

- Standardizing food production
    - Staff become more familiar with the recipes and more efficient in producing them.
- Reducing storage and food waste
    - CEs and sites/providers know through history how much of each component to keep on hand and how much of each item to make.

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

4113 Pre-planned, Pre-printed Menus in Day Care Homes

While sponsors of day care homes must ensure that sites/providers prepare a meal production record for each meal service on a daily basis, they cannot:

- Require the use of pre-planned, pre-printed menus.
- Provide pre-planned, pre-printed menus, except as a training tool.

Individual providers may use pre-planned, pre-printed menus that they have developed for their own use. Each day, they must:

- Verify that the items on the pre-printed menu were served as listed, or that acceptable substitutions were made.
- Identify the individual who recorded the information.
- Record the date.

EXAMPLE: On the first day of a pre-printed 10-day menu, the provider served all of the items listed. Prior to the end of the day, the provider must notate that each item was served and initial and date the menu record.

If a substitution is made, the item must be added to the pre-printed menu record. Providers should record the substitution without obscuring the readability of the original item.

EXAMPLE: A provider served each of the items that were listed on a lunch menu prepared 10 days earlier, except corn was substituted for green beans on the ninth day. Prior to the end of the ninth day, the provider must:

- Strike through the words “green beans.”
- Record “corn”.
- Notate that other items were served as planned.
- Initial the changes.

Providers must use the *Daily Meal Count, Attendance, and Meal Production Record* (H1539) to record their menus or alternate form with the same elements. CEs must ensure all required information is documented and maintained if an alternate menu is used.

4114 Approved Meal Types

4114.1 Child Care Centers, including Outside-School-Hours Care Centers

Child care centers may serve any of the following meals:

Meals	Snacks
Breakfast	A.M.
Lunch	P.M.
Supper	Evening

However, child care centers can only serve up to a maximum of two meals and one snack, or two snacks and one meal, per child per day. The CE will indicate in the site application the type of meals that the site will serve.

A center operating a traditional child care center for non-school age children may also operate an outside-school-hours care center program or an At-Risk program that is distinct from the preschool program. However, the center must ensure that the children receiving the maximum number of meals at the child care center are not also receiving meals at another program located at the site. The daily meal maximum applies to all CACFP meals served in a day, regardless of CACFP sub-program.

CEs and sites cannot claim reimbursement for meals or snacks that are provided by a child's parent/guardian (e.g., a sack lunch).

BREAST MILK AND FORMULA EXCEPTIONS:

- *For children of any age*, breast milk (expressed and provided by the parent/guardian or directly breastfed on-site) can substitute for fluid milk requirements. CEs and sites may receive reimbursement if they document this substitution.
- *For infants*, parents/guardians may provide breast milk (expressed and provided by the parent/guardian or directly breastfed on-site) or creditable infant formula, as long as the site/provider supplies all other required components and documents the arrangement.

Outside-school-hours care centers may claim lunches served to children:

- Attending schools without lunch programs; and
- On weekends, school holidays, or school vacations.

CEs and sites cannot claim reimbursement for meals or snacks that are served to:

- Adults.
- Children in excess of the licensed capacity.
- Children not properly enrolled.

4114.2 Day Care Home Providers

Providers may serve any of the following:

Meals	Snacks
Breakfast	A.M.
Lunch	P.M.
Supper	Evening

However, providers can only serve up to a maximum of two meals and one snack, or two snacks and one meal, per child per day. The CE will indicate in the site application the type of meals that the site will serve.

Providers cannot claim reimbursement for meals or snacks that are provided by a child's parent/guardian, e.g., a sack lunch.

BREAST MILK AND FORMULA EXCEPTIONS:

- *For infants*, parents/guardians may provide breast milk (expressed and provided by the parent/guardian or directly breastfed on-site) or creditable infant formula, as long as the site/provider supplies all other required components and documents the arrangement.
- *For children of any age*, breast milk (expressed and provided by the parent/guardian or directly breastfed on-site) can substitute for fluid milk requirements. CEs and sites may receive reimbursement if they document this substitution.

Additionally, meals or snacks cannot be claimed that are served to:

- Adults.
- Children in excess of the day care homes licensed capacity.
- Children not properly enrolled.
- The children of one provider in the care of another provider unless substitute care is being offered and the child is enrolled with the substitute provider. (The provider for whom substitute care is offered cannot claim reimbursement for any meals during the period of substitute care).
- The provider's school-age children (during regular school hours), unless the children are home-schooled, and all CACFP requirements are met.
- The provider's own child, unless the child is eligible for free or reduced-price meals **and** at least one enrolled non-resident child is present at the meal service.

4114.3 Adult Day Care Centers

Adult day care centers may serve any of the following:

Meals	Snacks
Breakfast	A.M.
Lunch	P.M.
Supper	Evening

However, adult day care centers can only serve up to a maximum of two meals and one snack, or two snacks and one meal, per participant per day. The CE will indicate in the site application the type of meals that the site will serve.

Adult day care centers cannot claim reimbursement for meals or snacks that:

- Are served to participants in excess of the center's licensed capacity;
- Are provided by the participant;
- Conflict with a participant's special diet requirements as specified in a physician's or dietitian's written statement;
- Are served to institutionalized individuals who do not reside in the community.

Additionally, CACFP regulations prohibit duplication of CACFP reimbursement and reimbursement under Title III, Part C. of the Older Americans Act, which provides reimbursement for nutritional services.

An adult day care center may use CACFP and Title III, Part C monies to fund different meals within the same meal service, or to fund different meal services (breakfast, lunch, dinner, or snacks), but they cannot receive benefits or reimbursement from both programs for the same meal served.

This prohibition includes the commodity (or cash-in-lieu of commodity) benefit currently available under Title III, Part C. CEs and sites must ensure that they do not claim reimbursement for meals that are supported by Title III, Part C.

If a CE or site contracts with another agency to produce meals, the CE or site should include the stipulation in their contract that Older Americans Act, Title III, Part C funds, or USDA commodities provided under Title III, Part C, must not be used to subsidize the meals.

If CE's or site's meals are prepared in a central kitchen that serves several programs, the CE and site must maintain an accounting system that ensures that USDA commodities provided under Title III, Part C are not used to produce meals for the CE or site and that the CE or site does not claim reimbursement from Title III, Part C for meals that are reimbursed in the CACFP.

4114.4 At-Risk Sites

At-Risk sites can only serve a maximum of one meal and one snack per day, and only after school or on weekends or holidays when school is not in service.

- Breakfast or lunch can be claimed **only** during school holidays or weekends during the school year, **except that** lunch meals may be claimed for those children who only attend school half-day, such as pre-school.
- At-Risk sites **cannot** claim reimbursement while school is out of session over the summer break.
- At-Risk sites operating at a location where a separate child care center is already operating a CACFP program for enrolled children must ensure that no meals are claimed served to participants of the child care center that exceed the maximum 2-meal/1-snack or 2-snack/1-meal daily maximum.
- A CE or site may serve two snacks (as opposed to one snack and one meal) with prior approval from TDA.

4114.5 Emergency Shelters

Emergency shelters may be approved to claim up to three reimbursable meals - breakfast, lunch, and supper - **or** two meals and one snack, to each child, each day, on weekdays and weekends.

4120 Meal Pattern Requirements

The meal pattern charts document the *minimum* amounts of each required component as well as any other requirements (i.e., milk types, sugar limits) that must be provided to each participant for a meal to qualify for reimbursement. Participants may be served larger portions, but at a minimum must be served the quantity specified in the meal pattern charts for each component. CEs and sites/providers may serve any additional food that they choose, considering serving size and appropriateness for participants of different ages and abilities.

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

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

- A meal component is one of the food categories that comprise a reimbursable meal. CACFP sites/providers must always offer all the meal components that comprise a reimbursable meal in at least the minimum required amounts. The meal components in the CACFP are fluid milk, vegetables, fruits, grains, and meats/meat alternates.
- A food item is a specific food offered within the meal components comprising the reimbursable meal. For example, separate ½ cup servings of broccoli and carrots are two food items that comprise the vegetable component.
- A combination food contains more than one food item from different meal components that cannot be separated, such as a vegetable pizza. A vegetable pizza contains three food items from three different meal components: a serving of grains (crust), a serving of

vegetables (vegetable toppings), and a serving of meat alternate (cheese). Other examples of combination foods are soups, prepared sandwiches, and burritos.

All serving sizes and equivalents must be as specified in the *Food Buying Guide (FBG) for Child Nutrition Programs* as published by USDA. Additionally, USDA provides an FBG Mobile App that provides quick access to food yield information for quick purchasing decisions. The mobile app and other FBG resources can be downloaded from USDA's website at https://www.fns.usda.gov/tn/fbg.

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

Requests for approval must be submitted to one of the following:

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

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

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

4121 Infant Meal Pattern

4121.1 Infant Meal Pattern Chart

Meal Type	Birth through 5 Months	6 through 11 Months
BREAKFAST, LUNCH OR SUPPER	4-6 fluid ounces (fl oz) of breast milk [1] or formula [2]	6-8 fluid ounces (fl oz) of breast milk [1] or formula; [2] and 0-½ ounce (oz) equivalent infant cereal; [2 3] or 0-4 tablespoons (tbsp) meat, fish, poultry, whole egg, cooked dry beans, peas, and lentils; or 0-2 oz of cheese; or 0-4 oz (volume) of cottage cheese; or 0-4 oz or ½ cup of yogurt; [4] or a combination of the above; [5] and 0-2 tbsp vegetable or fruit, or a combination of both.[5 6]
SNACK	4-6 fluid ounces (fl oz) of breast milk [1] or formula [2]	2-4 fluid ounces (fl oz) breast milk [1] or formula; [2] and 0-½ ounce (oz) equivalent bread; [3 7] or 0-¼ oz equivalent crackers; [3 7] or 0-½ oz equivalent infant cereal; [2 3] or 0-¼ oz equivalent ready-to-eat breakfast cereal; [3 5 7 8] and 0-2 tablespoons vegetable or fruit, or a combination of both.[5 6]

[1] Breast milk or formula, or portions of both, must be offered; however, it is recommended that breast milk be served from birth through 11 months. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered at a later time if the infant will consume more. Additionally, sites/providers do not need to document the "quantity used" if the parent directly breastfeeds their infant.

[2] Infant formula and dry infant cereal must be iron-fortified.

[3] Information on crediting grain items may be found in 4121.4 Solid Foods in this section.

[4] Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce).

[5] A serving of this component is required when the infant is developmentally ready to accept it.

[6] Fruit and vegetable juices must not be served.

[7] A serving of grains must be whole grain-rich, enriched meal, enriched flour, bran, or germ.

[8] Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereals must contain no more than 6 grams of added sugars per dry ounce.

4121.2 Offering Infant Meals

Participating sites/providers must offer enrolled infants a meal that complies with the CACFP infant meal pattern requirements above. Sites/providers may not avoid this obligation by stating that an infant is not "enrolled" in the CACFP, citing logistical or cost barriers, or by stating they are not claiming infant meals.

The CACFP infant meal pattern includes two infant age groups: birth through the end of 5 months and the beginning of 6 months through the end of 11 months. This grouping delays the introduction of solid (or complementary) foods until about 6 months of age.

Birth Through 5 Months

For about the first 6 months of life, human milk (breast milk) and/or iron-fortified infant formula can support an infant's nutrient needs.

6 Through 11 Months

Sites/providers must provide nutrient-dense foods with an appropriate texture and consistency when infants are developmentally ready to consume solid foods at around 6 months of age. Solid food complements breast milk or iron-fortified infant formula. *See Determining Developmental Readiness for Solid Foods* guidelines below.

Sites/providers must follow the eating preferences of infants when offering foods. For example, when a fruit or vegetable is a meal requirement and an infant rejects what is being served, the site/provider must offer another fruit or vegetable. The site/provider must offer an alternative even if the infant previously consumed the food they are now rejecting.

Determining Developmental Readiness for Solid Foods

As a best practice, sites/providers should request written permission from parents or guardians before serving solid foods to their infant. To help parents make this decision, sites/providers can share these American Academy of Pediatrics (AAP) guidelines for determining if an infant is ready for solid foods. The infant should:

- Be able to sit in a high chair, feeding seat, or infant seat with good head control.
- Open their mouth when food comes their way.
- Show curiosity around food (e.g., observing, reaching, or seeming eager for food).
- Be able to move food from a spoon to their mouths.
- Have doubled their birth weight and weigh about 13 pounds or more.

CAUTION: Parents/guardians and sites/providers should delay solid foods until around 6 months, as most infants are not developmentally ready before then. The AAP particularly advises against introducing solid foods before 4 months of age.

Feeding On Demand

Sites/providers should feed infants on demand because infants may experience hunger outside of mealtimes. Feeding an infant on demand means feeding them when they show signs of hunger.

EXAMPLES:

- If an infant is not hungry for breakfast when they first arrive, the site/provider may offer the infant breakfast later in the morning when the infant shows signs of hunger.
- If a breastfed infant regularly consumes less than the minimum amount of breast milk per feeding, the site/provider must offer additional breast milk later.

Sites/providers may claim infant meals fed on demand. They must not disallow infant meals due solely to the fact that the meals are not served within established mealtime periods.

4121.3 Breast Milk and Iron-Fortified Formulas

Sites/providers may claim reimbursement for meals when an infant consumes only breast milk or iron-fortified formula. If parents/guardians supply either, refer to "Parent-Provided Components" in *Solid Foods* for additional guidance and *Infant Feeding Preference* for required documentation.

Iron-Fortified Infant Formulas

Sites/providers must offer at least one type of iron-fortified infant formula. They may purchase infant formula online or in-person from retailers, pharmacies, and membership-based warehouses.

A parent or guardian may decline the offered infant formula and supply an iron-fortified alternative. This includes infant formula received through WIC, as long as the parent or guardian does not donate WIC formula or foods to other infants or children.

Sites/providers may claim reimbursement for formula if it:

- **Is iron-fortified**, containing at least 1 milligram (mg) of iron per 100 calories of formula, which may be indicated by the Nutrition Facts label and/or package labeling,
- **Not an FDA Exempt Infant Formula** (see *Medical Exceptions to Breast Milk or Iron-Fortified Infant Formulas* in this section),
- **Meets the definition of an infant formula** in section 201(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(z)) and meet the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a) and the regulations at 21 CFR parts 106 and 107, and
- Is served as a beverage.

Sites/providers **may not credit** iron-fortified infant formula in pancakes, muffins, or other grain goods.

Formula Food Safety Considerations

Sites/providers should prepare, use, and store infant formula according to label instructions or as directed by the infant's healthcare provider or registered dietitian.

Per food safety guidelines, TDA will not reimburse sites/providers for formula that is:

- Homemade, under any circumstances, or
- Not prepared correctly (e.g., water is measured incorrectly or from an unsafe source), unless a State licensed healthcare professional or registered dietitian provides a written medical statement to support using instructions other than what is instructed on the formula's label.

Sites/providers must also ensure that formula is:

- Consumed or refrigerated within 2 hours of preparation,
  - If refrigerated, it should be kept at 40° Fahrenheit (4° Celsius) or below and consumed within 24 hours.
- Consumed or thrown away within 1 hour after an infant has started drinking it,
- Purchased in a closed container in good condition (e.g., no rust spots or dents),
- Not consumed past the "use by" date, and
- Stored in a cool, dry, indoor place when unopened.

Breast Milk

Sites/providers may claim meals containing breast milk whether the breast milk is expressed or a parent directly breastfeeds their infant at the site. They are not required to document *how* the breast milk was delivered; additionally, the site/provider does not need to document the "quantity used" if the parent directly breastfeeds their infant.

Storing Expressed Breast Milk

According to AAP recommendations, sites/providers must:

- Store breast milk no more than 4 days from the date the breast milk was expressed,
- Store breast milk in a refrigerator kept at 40° Fahrenheit (4° Celsius) or below, and
- Use it no more than 24 hours after it has fully dethawed from frozen.

Direct Breastfeeding on Site Premises

TDA strongly encourages sites/providers to offer a private, quiet, comfortable, and sanitary area for breastfeeding parents.

Sites/providers may claim reimbursement if a breastfeeding parent chooses to feed their infant elsewhere on the site/provider premises, including in a car. However, they may not claim reimbursement for the meal if the parent leaves the premises to breastfeed their infant.

Medical Exceptions to Breast Milk or Iron-Fortified Infant Formulas

If supported by a medical statement signed by a State-licensed healthcare professional or registered dietician, sites/providers may claim the following substitutes:

- FDA Exempt Infant Formula, if the substitution is due to a disability,

- Low-iron formula (i.e., not iron-fortified), whole cow's milk, or any other fluid milk substitute, if the substitution is due to a physical or mental impairment, or
- Cow's milk or fluid milk substitute.

The medical statement must provide an explanation of how to modify the meal or meal service to accommodate the infant's disability.

The site/provider must submit medical statements to the sponsoring CE and file them in a secure location. Refer to *Modifications for Disability Reasons* for additional guidance.

4121.4 Solid Foods

Sites/providers must provide nutrient-dense foods with an appropriate texture and consistency when infants are developmentally ready to consume solid foods at around 6 months of age. Solid food complements breast milk or iron-fortified infant formula.

As a best practice, sites/providers should request written permission from parents or guardians before serving solid foods to their infant. To help parents make this decision, sites/providers can share the AAP (American Academy of Pediatrics) guidelines (listed above) for determining if an infant is ready for solid foods.

Parent-Provided Components

Sites/providers may allow a parent or guardian to provide **one** component of a reimbursable infant meal, with these requirements:

- The site/provider must provide all other required meal components

  EXAMPLE: If a parent provides breast milk or infant formula and the infant is ready for solid foods, the site/provider **must** provide the solid foods for the meal to be reimbursable
- Documentation of this arrangement must be maintained (See *Infant Feeding Preference* for more information)

Sites/providers are responsible for ensuring that parent-provided components such as infant formula are creditable. If a parent provides an alternate, non-creditable infant formula (for example, low iron), the CE and site/provider may not claim the meal unless the parent provides a medical statement signed by a State-licensed healthcare professional or registered dietitian that explains the need for the substitution and the recommended infant formula.

Fruits and Vegetables

The site/provider must serve vegetables, fruits, or a combination of both at all meals and snacks for infants who are developmentally ready to accept them. The AAP recommends that infants consume more vegetables than fruits.

Sites/providers can serve fresh, frozen, or canned vegetables and fruits. Beans, peas, lentils, and dried fruits are also creditable.

NOTE: Beans, peas, and lentils may be counted as either a vegetable or as a meat/meat alternate, but not as both in the same dish.

When served to infants:

- Fruits and vegetables must be of appropriate consistency (i.e., smashed, pureed, or thinly sliced and all pits, seeds, skins, and peels removed) and no larger than ½ inch in size to prevent choking.
- Fruit juice, vegetable juice, or any combination of both are not reimbursable.

Meat/Meat Alternates

Lean meat and poultry are preferable, such as strained or pureed well-cooked lean beef, pork, lamb, veal, chicken, turkey, liver, and boneless fin fish.

CEs or sites/providers may claim the following as meat alternates:

- Dairy and soy yogurts containing no more than 12 grams of added sugars per 6 ounces,
- Natural or processed cheeses,
- Whole egg (yolk and white),
- Commercial tofu if:
    - Ingredients are limited to whole soybeans, one or more food-grade coagulants (typically a salt or acid), and water, and
    - Served in the amount is 0-4 tablespoons (1/4 cup) or 2.2 oz at a minimum
        - Containing 5 or more grams of protein
- Tempeh if:
    - Served in the amount of 0-4 tablespoons (1/4 cup) at a minimum
    - Ingredients are limited to soybeans (or other legumes), water, tempeh culture and for some varieties, vinegar, seasonings, and herbs.

    NOTE: Vegetables included in tempeh may count toward the vegetable requirement if documentation shows that the vegetable is present in minimum creditable quantities (0-2 tablespoons).

Processed Meats and Poultry

Processed meats and poultry such as chicken nuggets, hot dogs (frankfurters), infant meat and poultry sticks (not dried or semi-dried, not jerky), fish sticks, and sausage may be part of a reimbursable meal. However, they are not recommended. The AAP recommends limiting these foods because they are higher in sodium than other meat products. A Child Nutrition (CN) label or Product Formulation Statement (PFS) is required for these foods to determine how these foods credit toward the meal pattern requirements.

Processed meats and poultry must be free of byproducts, cereals, and extenders to be creditable in the infant meal pattern. Additionally, only the chicken and fish portion, not the breaded portion, of chicken nuggets and fish sticks are creditable as meat.

Grains and Cereals

Grains must be made with enriched or whole grain meal or flour. Sites/providers are not required to serve at least one whole-grain rich food per day to infants. However, they are encouraged to serve them when possible.

Grains creditable for breakfast, lunch, or supper

Iron-fortified infant cereal containing no more than 6 grams of added sugars per dry ounce is the only grain that may count towards a reimbursable breakfast, lunch, or supper in the CACFP infant meal pattern.

Unless directed by a signed medical statement, cereal should not be served in a bottle with breast milk or formula. If iron-fortified cereal is served in a bottle with breast milk or formula, neither the cereal nor the breast milk or formula can be claimed, unless it is supported by a signed medical statement from a State-licensed healthcare professional or registered dietitian.

Infant cereal must contain iron to be creditable. No minimum iron amount is required, and cereal is creditable if ingredients list "iron," "ferric fumarate," "electrolytic iron," or "iron (electrolytic)."

The following infant cereals are **not** reimbursable:

- Iron-fortified dry infant cereal containing fruit,
- Jarred "wet" infant cereals, and
- Enriched farina, regular oatmeal, and corn grits. These can be fed as additional foods if the parent requests that they be served.

Grains creditable for snack

Sites/providers may claim bread/bread-like items, crackers, iron-fortified infant cereal, or ready-to-eat cereal as part of a reimbursable snack to infants who are developmentally ready to accept them. Sites/providers may claim cereals that are:

- Whole grain-rich, enriched, or fortified, and
- Contain no more than 6 grams of added sugars per dry ounce.

Ready-to-eat cereals, or boxed cereals, are a type of breakfast cereal that can be eaten as sold and is typically fortified with vitamins and minerals. Some examples of ready-to-eat cereals are puffed rice cereals and whole grain O-shaped cereal. Oatmeal, steel cut oats, grits (enriched), and instant cereals are not ready-to-eat cereals.

Substituting Vegetables for Grains in Tribal Communities

To accommodate cultural food preferences and address product availability and cost concerns in outlying areas, sites/providers who serve primarily American Indian participants may serve infants any vegetable to meet the grain requirement. These vegetables may include breadfruit, prairie turnips, plantains, sweet potatoes, and yams.

Foods containing honey

Babies less than 1 year of age should never be fed honey, or foods that contain honey, including cereals. Honey may contain substances that can cause "infant botulism," a serious type of food-related illness that can make a baby very sick. Honey should not be added to food, water, or formula that is fed to babies, or used as an ingredient in cooking or baking (e.g., yogurt with honey, peanut butter with honey, baked goods that contain honey). This also applies to commercially prepared foods such as cereals sweetened with honey or honey graham crackers.

Commercially Prepared (or Store Bought) Infant Foods

Commercially prepared infant foods packaged in a jar, plastic container, pouch, or any other packaging are creditable in CACFP. The way a food is packaged does not impact whether a food is creditable.

Commercially prepared baby food vegetables and fruits are reimbursable if they:

- List fruit or vegetable as the first ingredient in the ingredient listing on the label.
- List fruit or vegetable as the first ingredient in the ingredient listing on the label and contain multiple vegetables or multiple fruits.

Commercial baby foods that are NOT reimbursable are:

- Jarred cereals, desserts, or puddings that list a fruit as the first ingredient in their ingredient listing.
- Fruits and vegetables that list water as the first ingredient in their ingredient listing.

Sites/providers should consider spoon-feeding foods from a pouch to infants, because this is the most appropriate method for feeding pureed or mashed foods. Spoon-feeding is developmentally beneficial and does not pose the negative risks of tooth decay and increased dental cavities that sucking on a pouch does.

Combination Foods

Combination foods are those that include a mixture of two or more meal components (e.g., meat and vegetables) and may be counted towards a reimbursable infant meal or snack.

Sites/providers serving combination foods to developmentally ready infants must ensure:

- Infants have been introduced to all ingredients and have well-established solid food eating habits,
- The food is the appropriate texture to reduce risk of choking,
- The food is not high in added sugars, fats, or sodium, and
- The food contains the full required amount of the meal component *or* other foods are offered to meet the full required amount of the meal component

NOTE: Some combination foods may contain ingredients that are not creditable, such as rice or pasta.

4122 Meal Pattern for Children One Year or Older and Adults

4122.1 Breakfast Meal Pattern Chart

BREAKFAST MEAL COMPONENTS *Must Serve All Three Components for a Reimbursable Meal*	**Minimum Quantities**				
	Ages 1 - 2	**Ages 3 - 5**	**Ages 6 - 12**	**Ages 13 – 18** [1] **(at-risk afterschool programs and emergency shelters)**	**Adult participants**
Fluid Milk	4 fl oz [2]	6 fl oz [3]	8 fl oz [4]	8 fl oz [4]	8 fl oz [5]
Vegetables, fruits, or portions of both [6]	1/4 cup	1/2 cup	1/2 cup	1/2 cup	1/2 cup
Grains [7]	1/2 ounce equivalent	1/2 ounce equivalent	1 ounce equivalent	1 ounce equivalent	2 ounce equivalents

[1] *At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.*

[2] *Must serve unflavored whole milk to children age 1.*

[3] *Must serve unflavored milk to children 2 through 5 years old. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

[4] *May serve unflavored or flavored milk to children ages 6 and older. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

[5] *May serve unflavored or flavored milk to adults. The milk must be fat-free, skim, low-fat, or 1 percent or less. Yogurt may be offered in the place of milk once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce).*

[6] *Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day.*

[7] *Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Meats/meat alternates may be offered in place of the entire grains requirement, up to 3 times per week at breakfast. One ounce equivalent of meats/meat alternates credits equal to one ounce equivalent of grains. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereals must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items and meats/meat alternates may be found in 4122.7 Grains and 4122.8 Meat/Meat Alternates in this section.*

4122.2 Lunch and Supper Meal Pattern Chart

LUNCH AND SUPPER MEAL COMPONENTS *Must Serve All Three Components for a Reimbursable Meal*	**Minimum Quantities**				
	Ages 1 - 2	**Ages 3 - 5**	**Ages 6 - 12**	**Ages 13 – 18** [1] **(at-risk afterschool programs and emergency shelters)**	**Adult participants**
Fluid Milk	4 fl oz [2]	6 fl oz [3]	8 fl oz [4]	8 fl oz [4]	8 fl oz [5]
Meats/ meat alternates [6]	1 ounce equivalent	1-1/2 ounce equivalents	2 ounce equivalents	2 ounce equivalents	2 ounce equivalents
Vegetables [7]	1/8 cup	1/4 cup	1/2 cup	1/2 cup	1/2 cup
Fruits [8]	1/8 cup	1/4 cup	1/4 cup	1/4 cup	1/2 cup
Grains [9]	1/2 ounce equivalent	1/2 ounce equivalent	1 ounce equivalent	1 ounce equivalent	2 ounce equivalents

[1] *At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13-18 to meet their nutritional needs.*

[2] *Must serve unflavored whole milk to children age 1.*

[3] *Must serve unflavored milk to children 2 through 5 years old. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

[4] *May serve unflavored or flavored milk to children ages 6 and older. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

[5] *May serve unflavored or flavored milk to adults. The milk must be fat-free, skim, low-fat, or 1 percent or less. Yogurt may be offered in place of milk once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk. A serving of fluid milk is optional for suppers served to adult participants.*

[6] *Alternate protein products must meet the requirements in appendix A of 7 CFR Part 226. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in 4122.8 Meat/Meat Alternates in this section.*

[7] *Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day. A vegetable may be offered to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.[8] Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items may be found in 4122.7 Grains in this section.*

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

[9] *Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must contain no more than 6 grams of added sugars per dry ounce. Information on crediting grain items may be found in 4122.7 Grains in this section.*

4122.3 Snack Meal Pattern Chart

SNACK MEAL COMPONENTS [1]	**Minimum Quantities**				
	Ages 1 - 2	**Ages 3 - 5**	**Ages 6 - 12**	**Ages 13 – 18** [2] **(at-risk afterschool programs and emergency shelters)**	**Adult participants**
Fluid Milk	4 fl oz [3]	4 fl oz [4]	8 fl oz [5]	8 fl oz [5]	8 fl oz [6]
Meats/ meat alternates [7]	1/2 ounce equivalent	1/2 ounce equivalent	1 ounce equivalent	1 ounce equivalent	1 ounce equivalent
Vegetables [8]	1/2 cup	1/2 cup	3/4 cup	3/4 cup	1/2 cup
Fruits [8]	1/2 cup	1/2 cup	3/4 cup	3/4 cup	1/2 cup
Grains [9]	1/2 ounce equivalent	1/2 ounce equivalent	1 ounce equivalent	1 ounce equivalent	1 ounce equivalent

1 *Must serve two of the five components for a reimbursable snack. Milk and juice may not be served as the only two items in a reimbursable snack.*

2 *At-risk afterschool programs and emergency shelters may need to serve larger portions to children ages 13 through 18 to meet their nutritional needs.*

3 *Must serve unflavored whole milk to children age 1.*

4 *Must serve unflavored milk to children 2 through 5 years old. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

5 *May serve unflavored or flavored milk to children ages 6 and older. The milk must be fat-free, skim, low-fat, or 1 percent or less.*

6 *May serve unflavored or flavored milk to adults. The milk must be fat-free, skim, low-fat, or 1 percent or less. Yogurt may be offered in place of milk, once per day for adults. Yogurt may count as either a fluid milk substitute or as a meat alternate, but not both, in the same meal. Six ounces (by weight) or ¾ cup (by volume) of yogurt is the equivalent of 8 ounces of fluid milk.*

7 *Alternate protein products must meet the requirements in appendix A of 7 CFR Part 226. Through September 30, 2025, yogurt must contain no more than 23 grams of total sugars per 6 ounces. By October 1, 2025, yogurt must contain no more than 12 grams of added sugars per 6 ounces (2 grams of added sugars per ounce). Information on crediting meats/meat alternates may be found in 4122.8 Meat/Meat Alternates in this section.*

8 *Juice must be pasteurized. Full-strength juice may only be offered to meet the vegetable or fruit requirement at one meal or snack, per day.*

9 *Must serve at least one whole grain-rich serving, across all eating occasions, per day. Grain-based desserts may not be used to meet the grains requirement. Through September 30, 2025, breakfast cereals must contain no more than 6 grams of total sugars per dry ounce. By October 1, 2025, breakfast cereal must contain no more than 6 grams of added sugar per dry ounce. Information on crediting grain items may be found in 4122.7 Grains in this section.*

4122.4 Milk

Sites/providers:

- Must serve fluid milk as a beverage, on cereal, or a combination of both,
- Must ensure milk is pasteurized and meets all State and local standards,
- May serve milk as one of the two required components in a CACFP snack, if the other component is not a beverage, and
- May serve goat's milk if it meets State and local standards, appropriate fat content percentages, and flavored versus unflavored requirements pertaining to fluid milk.

Sites/providers may serve breast milk as a substitute for fluid milk for *children of any age*, whether:

- The breast milk is expressed, or
- The parent directly breastfeeds the child on-site
    - Document in the same manner as a regular infant meal, and
    - Count towards the meal service closest to when the parent breastfed.

NOTE: *If the amount of expressed breast milk provided does not meet the minimum serving size required in the meal pattern, the site/provider must serve additional fluid milk alongside the breast milk to meet the minimum milk requirement.*

Sites/providers who serve participants any substitutions other than the exceptions listed in each sub-section below **must** have a written medical statement signed by a State licensed healthcare professional or registered dietitian on file. *See Modifications for Disability Reasons in this section for additional guidance.*

If a CE or site/provider experiences temporary unavailability of milk, or conditions exist that cause a continuing unavailability of milk, it should consult its ESC to determine if the emergency situation warrants an exception to the meal pattern as it pertains to the milk component.

Children 1 year old

Sites/providers must serve 1-year-old children unflavored whole milk. Reimbursable milks for this age group include:

- Breast milk,
- Whole milk,
- Whole lactose-reduced milk,
- Whole lactose-free milk,
- Whole cultured milk, and
- Whole acidified milk.

The following **exceptions** apply:

- Iron-fortified formula is a substitute when served to children between the ages of 12 and 13 months to support the transition to whole milk.
- Breast milk is a substitute for children of any age whether
    - The breast milk is expressed and provided by the parent or
    - The parent directly breastfeeds the child on-site

Children 2 years old and older, and Adults

Sites/providers must serve all participants older than 2-years-old either unflavored low-fat (1%) or unflavored fat-free (skim) milk. Reimbursable milks for this age group include:

- Low-fat (1%) milk or fat-free (skim) milk,
- Low-fat or fat-free lactose reduced milk,
- Low-fat or fat-free lactose free milk,
- Low-fat or fat-free buttermilk, and
- Low-fat or fat-free acidified milk.

The following **exceptions** apply:

- Whole milk or reduced-fat (2%) milk are substitutes when served to children between the ages of 24 and 25 months to support the transition to low-fat or skim milk.
- Breast milk is a substitute for children of any age whether
    - The breast milk is expressed and provided by the parent or
    - The parent directly breastfeeds the child on-site

Fluid Milk Flexibilities for Adult Participants

For ADC participants, sites/providers may *optionally*:

- **Not serve fluid milk for supper.** If sites/providers do not serve fluid milk for supper, they are encouraged to serve water instead.
- **Substitute 6 ounces or 3/4 cup of yogurt for an 8 fluid ounce serving of milk *up to once per day*,** if the yogurt:
    - Is not considered a meat alternate in the same meal.
    - Contains no more than 12 grams of added sugars per 6 ounces.

Flavored Milk

Sites/providers may only claim flavored milks when served to participants 6-years-old and older. Flavored/milks:

- Must be low-fat (1%) or fat-free (skim) milk, and
- Are encouraged to be lower in added sugar to reduce consumption of added sugars, containing no more than 10 grams of added sugars per 8 fluid ounces

4122.5 Vegetables

Vegetables may be fresh, frozen, or canned. They may also include dry beans, peas, lentils, vegetable juice, or pasta products made of vegetable flour.

Sites/providers are reimbursed according to the following guidelines:

- **All vegetables, including cooked leafy greens**, are credited based on volume as served.
- **Raw leafy greens**: 1 cup of raw leafy greens credits as 1/2 cup of vegetables.
- **Beans, peas, and lentils** may count as a vegetable or meat/meat alternate, but not as both in the same meal
    - **EXCEPT** when *different* beans, peas, or lentils are served
    - **EXAMPLES:** When served in the same meal, black beans on a salad may credit as a vegetable and black beans in chili may credit as a meat alternate. However, when served in the same meal, *black beans* on a salad and *kidney beans* in chili may *both* credit toward vegetables, because they are *two different beans*.

At lunch and supper, a vegetable may be credited for the fruit requirement. When two vegetables are served at lunch or supper (with one replacing fruit), they must be distinct kinds (e.g., carrots and broccoli).

<u>Mixtures and Purees</u>

For mixtures and purees, sites/providers are reimbursed according to the following guidelines:

- **Vegetable-fruit mixtures** may count toward both components when containing at least 1/8 cup of identifiable vegetables AND 1/8 cup of identifiable fruits per serving.
- **Two-vegetable mixtures** may count toward both the vegetable and fruit components at lunch and supper when containing at least 1/8 cup of each vegetable type.
- **Pureed vegetables** count toward the vegetable component only when the dish contains at least 1/8 cup of recognizable vegetables.

<u>Juices</u>

For juices, sites/providers are reimbursed according to the following guidelines:

- Only pasteurized full-strength vegetable juice may be credited.
- Regardless of participants at each meal service, juice may only credited when served at one meal or snack per day.
    - If sites/providers serve meals in shifts (e.g., two lunch shifts), they may serve juice at both as they are considered one meal.
    - If sites/providers operate distinct meal services (e.g., a.m. snack and p.m. snack), they may only serve juice at one meal.

- **Juice blends:** A vegetable/fruit juice blend may only contribute to one component (either vegetable or fruit) based on the most prominent ingredient.

  EXAMPLE: A juice blend that contains 60% vegetable juice and 40% fruit juice may only be credited toward the vegetable component.

Juice may be served as an extra food item outside the meal pattern (e.g., as an additional item at snack when juice was already served at breakfast). Sites/providers should note that extra food items, including juice, add calories and cost without increasing the meal reimbursement rate.

<u>**Other Creditable Vegetables**</u>

- **Hominy:** 1 cup of canned, drained hominy credits as 1 cup of vegetables.
- **Vegetable Flour Pasta Products** are credited as follows in the table below:

<table>
<tr><th colspan="2"><u>Pasta Made of 100% Percent Vegetable Flour(s)</u></th><th rowspan="2"><u>Pasta Products Made of Vegetable Flour(s) and Other Non-Vegetable Ingredients</u></th></tr>
<tr><th><u>Vegetable Flour(s) from One Vegetable Subgroup</u></th><th><u>Vegetable Flour(s) from Multiple Vegetable Subgroups</u></th></tr>
<tr><td>1/2 cup of pasta credits as 1/2 cup of vegetables

• Subgroup Example: 1/2 cup of 100% red lentil flour pasta credits toward 1/2 cup legumes requirement</td><td>Credits to specific vegetable subgroups with manufacturer’s Product Formulation Statement showing volume per serving

Otherwise credits as “additional vegetables” toward weekly requirement when volumes are unknown</td><td>Credits toward daily and weekly vegetable requirements with Product Formulation Statement showing volume per serving

NOTE: This rule does not apply to grain-based pasta colored with vegetable powder</td></tr>
<tr><th colspan="3"><u>Pasta Products Made of 100 Percent Legume Flour(s)</u></th></tr>
<tr><td colspan="3">Sites/providers may decide to credit legume pasta as a vegetable or a meat alternate, but not as both in the same meal.

• Example: 100% red lentil pasta may credit as either 1/2 cup legumes or 2 ounce equivalents of meat alternate, but not both. If credited as a meat alternate, the site/provider must offer an additional meat/meat alternate.

CEs and sites/providers may credit legume flour pasta using the Bean Flour yield information on page C-1 of Appendix C of the FBG, or by obtaining a Product Formulation Statement.</td></tr>
</table>

If a site/provider is serving pasta made with vegetable flour(s), CEs must train staff on how the pasta contributes towards the reimbursable meal.

4122.6 Fruits

Fruits may be fresh, frozen, canned, dried fruits, or fruit juice.

Sites/providers are reimbursed according to the following guidelines:

- All fruits are credited based on volume as served.
- **Dried fruit:** 1/4 cup of dried fruit credits as 1/2 cup of fruit.

At lunch and supper, a vegetable may be credited for the fruit requirement. When two vegetables are served at lunch or supper (with one replacing fruit), they must be distinct kinds (e.g., carrots and broccoli).

Mixtures and Purees

- **Vegetable-fruit mixtures** may count as both components when containing at least 1/8 cup of identifiable vegetables AND 1/8 cup of identifiable fruits per serving.
- **Pureed fruits** count toward the vegetable component only when the dish contains at least 1/8 cup of recognizable, creditable fruit.

Other Creditable Fruits

- **Fresh or frozen coconut** is credited based on volume as served.
    - At least 1/8 cup of fresh or frozen coconut must be served to credit toward the fruit component.
    - Dried coconut, coconut flour, and coconut oil are not creditable in any meal type.

Juices

For juices, sites/providers are reimbursed according to the following guidelines:

- Only pasteurized full-strength fruit juice may be credited.
- Regardless of participants at each meal service, juice may only credited when served at one meal or snack per day.
    - If sites/providers serve meals in shifts (e.g., two lunch shifts), they may serve juice at both as they are considered one meal.
    - If sites/providers operate distinct meal services (e.g., a.m. snack and p.m. snack), they may only serve juice at one meal.
- **Juice blends:** A vegetable/fruit juice blend may only contribute to one component (either vegetable or fruit) based on the most prominent ingredient.

  EXAMPLE: A juice blend that contains 60% fruit juice and 40% vegetable juice may only be credited toward the fruit component.

Juice may be served as an extra food item outside the meal pattern (e.g., as an additional item at snack when juice was already served at breakfast). Sites/providers should note that extra food items, including juice, add calories and cost without increasing the meal reimbursement rate.

4122.7 Grains

Sites/providers must serve grains:

- That are whole grain-rich, enriched meal, enriched flour, bran, or germ,
- For children one year or older and adults:
    - For breakfast, lunch, *and* supper meals, and

- That are whole grain-rich at least once per day, and sites/providers:
    - Must document which meal includes the whole grain-rich item on the Meal Production Record. See *Meal Production Record* in this section.
    - Must serve a whole grain-rich grain if only providing one meal per day.
        - If the one meal is a snack, serve a whole grain-rich grain when grain is one of the two chosen components.
    - Are encouraged to vary which meals include whole grain-rich items to ensure participants receive a variety of whole grains.
- Meats/meat alternates may be offered in place of the entire grains requirement, up to 3 times per week at breakfast.

- For 6-11 month old infants, for snack.

The grains component is measured in ounce equivalents (oz eq). Sites/providers can determine ounce equivalents from weights or volumes by using 'Exhibit A: Grain Requirements For Child Nutrition Programs,' part of the Food Buying Guide for Child Nutrition Programs (FBG), the Grains section of the FBG, and the Crediting Handbook for CACFP.

Enriched Grains and Fortified Breakfast Cereals

Enriched grains begin as whole grains, but during processing, the bran and germ parts (which contain many nutrients) are removed. Manufacturers then add back specific nutrients such as thiamin, riboflavin, niacin, folic acid, and iron.

Fortified grains, such as fortified cereals, are foods to which vitamins and minerals have been added to boost their nutritional value.

Sites/providers must ensure foods made from refined grains (i.e., enriched, fortified) meet at least one of the following criteria to be creditable:

1. The food is labeled "enriched" (e.g., "enriched long rice").

2. An enriched grain is listed as the first or second (to water) ingredient.

- Enriched grain ingredients:
    - Have the word "enriched" before them (e.g., "enriched wheat flour"), or
    - Be followed by a sub-listing of nutrients used to enrich the flour, for example, "yellow corn flour {iron, folic acid, riboflavin, niacin, and thiamine}."

3. The breakfast cereal is labeled "fortified," or the ingredients list added vitamins and minerals.

EXAMPLE: "Ingredients: Wheat flour, sugar, contains 2% or less of salt, baking soda, caramel color, BHT for freshness. Vitamins and Minerals: Vitamin C (sodium ascorbate, ascorbic acid), niacin, vitamin B6 (pyridoxine hydrochloride), reduced iron, zinc oxide, folic acid, vitamin B2 (riboflavin), vitamin B1 (thiamin hydrochloride)...."

NOTE: A refined grain cereal lacking added vitamins and minerals (e.g., "Ingredients: rice flour, corn flour, evaporated cane juice, pomegranate juice concentrate, sea salt") is not creditable because it's neither whole grain, enriched, nor fortified.

Whole Grain-Rich

Whole grains contain all three original parts of the grain—the bran, germ, and endosperm. Because nothing is removed, whole grains naturally keep all their nutrients. In the CACFP, creditable "whole grain-rich" foods contain at least 50% whole grains, with any remaining grains being enriched.

NOTE: Whole Grain Stamps are not sufficient documentation to determine if a food is whole grain-rich because these products may contain high amounts of non-creditable grains.

Sites/providers must ensure that food meets at least one of the following criteria to be creditable as a whole grain-rich food:

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

- Sites/providers should choose items marked as whole grain on the WIC list because not all cereals on a WIC list are required to be whole grain-rich.
- CEs and sites/providers can obtain a copy of the Texas Health and Human Services (HHSC) WIC Approved Foods List by contacting HHSC at 1-800-WIC-FORU or 1-800-942-3678, or online at https://www.hhs.texas.gov/providers/wic-providers/vendor-management-operations-unit/wic-authorized-product-list CEs and sites/providers can also use the WIC shopping guide to help locate WIC-approved products in stores that accept WIC benefits: https://texaswic.org/wic-foods-and-recipes/wic-shopping.

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

- **"Whole wheat bread" and "Whole wheat pasta"**: The FDA has official rules (called "Standards of Identity") for what can be labeled as "whole wheat bread" (21 CFR § 136.180) and "whole wheat pasta" (21 CFR § 139.138). If these exact labels are on a product, sites/providers may credit them as a whole grain-rich grain.
- Only breads and pastas with these exact product names conform to an FDA Standard of Identity and can be considered whole grain-rich using this criteria:

Whole Wheat	***Entire Wheat***	***Graham***	***Whole Wheat***
Bread	Bread	Bread	Macaroni Product or Macaroni
Rolls	Rolls	Rolls	Spaghetti
Buns	Buns	Buns	Vermicelli

- Sites/providers must use another criterion in this section to ensure the following products are whole grain-rich creditable:
  - Other "Whole Wheat" products, such as crackers, tortillas, bagels, and biscuits labeled as "whole wheat," and
  - Products labeled "whole grain," "made with whole grains," "made with whole wheat," "contains whole grains," or similar.

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

- *"Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol may reduce the risk of heart disease and some cancers," OR*
- *"Diets rich in whole grain foods and other plant foods, and low in saturated fat and cholesterol, may help reduce the risk of heart disease."*
- Sites/providers may use these whole grain health claims as documentation to demonstrate compliance with the whole grain-rich criteria.

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

- **EXCEPTION:** Grain-based desserts are not creditable in the CACFP.

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

- Any product, whether standalone or part of a mixed dish (e.g., pizza crusts or burrito tortillas), meets the Rule of Three and is creditable as a whole grain-rich item if:
  - Its first grain ingredient is whole grain, *and*
  - Its next two grain ingredients (if any) are whole grains, enriched grains, bran, or germ.
  - Disregard:
    - Any ingredients that are less than 2 percent of product weight and listed after the words, "contains 2% or less," and
    - Any grain derivatives or by-products.
- Ready-to-eat breakfast cereals may be creditable if:
  - The first grain ingredient listed is a whole grain, and
  - The cereal is fortified (e.g., vitamins and minerals are added).

Guidance on Whole Grains, Enriched Grains, Brans, Germs, and Disregarded Ingredients
Sites/providers may refer to the tables below for guidance on whole and enriched grains, brans, germs, and ingredients to disregard. These tables may not include all qualifying products.

The first grain ingredient must be **whole grain.**

Amaranth	Oat Groats	Sprouted whole wheat	Whole grain corn flour
Amaranth flour	Old fashioned oats	Steel cut oats	Whole grain einkorn flour
Brown rice	Quick cooking oats	Teff	Whole grain or nixtamalized corn (including popcorn, hominy*, corn masa, or masa harina)
Buckwheat	Quinoa	Teff flour	Whole grain oat flour
Buckwheat groats	Rye groats	Triticale	Whole grain sorghum flour
Buckwheat flour	Spelt berries	Triticale flour	Whole grain spelt flour
Bulgur	Sprouted brown rice	Wheat berries	Whole grain wheat flakes
Graham flour	Sprouted buckwheat	Wheat groats	Whole rye flour
Instant oatmeal	Sprouted einkorn	Whole dried corn	Whole sorghum (milo)
Millet	Sprouted spelt	Whole emmer (farro)	Wild rice
Millet flour	Sprouted whole rye	Whole durum flour	

**½ cup cooked or 1 ounce (28 grams) dry hominy grits credits as 1 oz equivalent grains*

The second and third grain ingredients must be **enriched**, if not whole grains, brans, or germs.

Enriched bromated flour	Enriched durum wheat flour	Enriched rice flour	Enriched wheat flour
Enriched corn flour	Enriched farina	Enriched rye flour	Enriched white flour
Enriched durum flour	Enriched rice	Enriched semolina	

The second and third grain ingredients must be **bran or germ**, if not whole or enriched grains.

Wheat bran	Oat bran	Corn bran	Rice bran	Rye bran	Wheat germ

Disregard **grain derivatives.**

wheat gluten	wheat dextrin	corn dextrin	tapioca starch
wheat starch	corn starch	rice starch	modified food starch

Flours that are Neither Whole nor Enriched

The following ingredients are neither whole nor enriched grains. They cannot be one of the first three grain ingredients.

Any bean/legume flour*	Corn flour	Oat fiber	Vegetable flour
Any nut/seed flour	Degerminated corn meal	Potato flour	Wheat flour
Barley malt	Durum flour	Rice flour	White flour
Bromated flour	Farina	Semolina	Yellow corn meal
Corn fiber	Malted barley flour	Tapioca flour	

** Pastas made from vegetable and/or bean, pea, and/or lentil flours do not credit toward the grains component, but may credit toward the vegetables or meats/ meat alternates components. See sections 4122.5 Vegetables and 4122.8 Meat/Meat Alternates for additional guidance.*

Rule of Three Examples

Example 1	Example 2	Example 3
An English muffin's ingredient list reads: "**whole wheat flour**, water, **enriched wheat flour**, wheat starch, yeast, sugar, and salt."	A corn chip's ingredient list reads: "**whole corn**, vegetable oil, salt, cheddar cheese, maltodextrin, **wheat flour**, Romano cheese, whey protein concentrate."	A cheese pizza's ingredient list reads: "mozzarella cheese, parmesan cheese, **white whole wheat flour**, **brown rice flour**, **enriched flour**, non-fat milk, water, tomato paste, yeast."
This is a whole grain-rich item, because: 1) ✓ The first grain ingredient is a whole grain, and 2) ✓ The second grain ingredient is an enriched grain. **Disregard:** wheat starch as a grain derivative.	**This is not a whole grain-rich item, because:** 1) ✓ The first grain ingredient is a whole grain, but 2) **X** The second grain ingredient is unenriched wheat flour. Sites/providers may claim this item as a grain, but not as a whole grain-rich item.	**This is a whole grain-rich item, because:** 1) ✓ The first grain ingredient is a whole grain, 2) ✓ The second grain ingredient is a whole grain, and 3) ✓ The third grain ingredient is an enriched grain.

6. The product has proper documentation from a manufacturer or a standardized recipe demonstrating that whole grains are the primary grain ingredient by weight.

- This method is helpful for identifying whole grain-rich items in the following cases:
    - A grain product does not list a whole grain as the first ingredient
    - For mixed dishes in which the grain portion is not entirely whole grain
- A product may still be whole grain-rich if it contains whole grain ingredients that together weigh more than the other grain ingredients
    - **EXAMPLE:** If a bread product lists "enriched flour" as the first ingredient, but the combined weight of multiple other whole grain ingredients outweigh the enriched four.

Proper Documentation Examples

Example 1	Example 2	Example 3
Documentation from a manufacturer of a purchased bagel states the product contains enriched wheat flour (40% of grain weight), whole-wheat flour (30% of grain weight), and whole oats (30% of grain weight).	*A standardized recipe for homemade bread calls for 2 cups of whole-wheat flour and 2 cups of enriched flour.*	*The retail package for a frozen breaded chicken patty is labeled "contains whole grains" and lists grain ingredients as "enriched wheat flour, whole wheat flour, and whole grain corn flour."*
1) Whole grain ingredients (whole-wheat flour, whole oats) total 60% of grain weight 2) Despite "enriched wheat flour" being the first ingredient listed **✓ This is a whole grain-rich item, because it contains at least 50% whole grains by weight, and the remaining grains are enriched.**	**✓ This is a whole grain-rich item, because it contains at least 50% whole grains by weight, and the remaining grains are enriched.**	**X** Not FDA Standard of Identity: "Contains whole grains" doesn't meet criteria 2. **X** Fails Rule of Three: First grain ingredient is not whole grain (criteria 5). Then, the site/provider contacts the manufacturer and receives documentation showing the grain portion contains 50% enriched wheat flour, 25% whole wheat flour, and 25% whole grain corn flour. **✓ This is a whole grain-rich item, because it contains at least 50% whole grains by weight (whole wheat flour, whole grain corn flour), and the remaining grains are enriched.**

Grain-based Desserts

Grain-based desserts do not credit toward the grains requirement at any meal or snack in the CACFP, because they are sources of added sugars and saturated fats. The following foods are considered grain-based desserts and are included in Exhibit A: *Grain Requirements for Child Nutrition Programs* in the Food Buying Guide (FBG)

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

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

Identifying Other Grain-based Desserts

Sites/providers should consider whether food is commonly considered a dessert or treat when identifying grain-based desserts. The following are considered grain-based desserts:

- Cookie products, which do not have an FDA standard of identity,
- Both homemade and commercially prepared granola bars and similar items, and
- Foods not listed in the FBG such as marshmallow cereal treats or ice cream cones that are commonly considered desserts or treats.

Grains Not Considered Grain-Based Desserts

Sites/providers may credit the following items toward the grain requirement:

- Quick breads (e.g., banana or zucchini bread) credit the same as muffins (see Group D in Exhibit A of the FBG);
- Crusts on meat/meat alternate (savory) pies (e.g., chicken pot pie) credit if they contain at least 0.25 ounce equivalent of enriched or whole grains per portion; and
- Savory scones and savory grain puddings.

Fruit in Desserts

Sites/providers may credit fruit in grain-based desserts (e.g., pies or cobblers) toward the fruit component. They are encouraged to use sweetened fruit in moderation to help reduce participants' consumption of added sugars and help children develop a taste preference for unsweetened fruit.

Grain-based Desserts for Special Occasions

Sites/providers who occasionally serve grain-based desserts for special occasions must:

- Consider the items as additional food items that do not contribute to meal components required for reimbursement, and
- Purchase these items with non-Program funds.

Breakfast Cereals

Sites/providers may only claim breakfast cereals if they:

- Contain **no more than 6 grams of added sugars per dry ounce** (21.2 grams of added sugars per 100 grams of dry cereal),
- Are **made from enriched or whole grain meal or flour**, or are **fortified**, and
- For infants, are iron-fortified.

Sites/providers must ensure that breakfast cereals are within the added sugar limits. This can be through at least one of the following methods:

1. Use any State agency's WIC approved breakfast cereal list.

- Consistent with updated CACFP guidelines, all WIC approved breakfast cereals must contain no more than 6 grams of added sugars per dry ounce (21.2 grams of added sugars per 100 grams).
- **NOTE:** Though all WIC approved breakfast cereals meet CACFP sugar requirements, they may not be creditable as a whole grain-rich item. See *Whole Grain-Rich* in this section for additional guidance.

2. Use USDA's Team Nutrition resource "Choose Breakfast Cereals That Are Lower in Added Sugars" (https://www.fns.usda.gov/tn/cacfp/breakfast-cereals-lower-sugar).

- This resource includes a ready-to-use chart of common cereals with their serving sizes and maximum allowable sugar content, eliminating the need for manual calculations.

3. Use the standard or rounding method to calculate the added sugars amount per dry ounce.

A breakfast cereal is compliant if it meets the sugar limit using either calculation method below, even if it exceeds the limit using the other method. Sites/providers only need to use one method to show compliance.

Standard Method Steps	Example
1) On the Nutrition Facts label, identify: i. **Serving size** in grams. ii. **Added sugars amount per serving** in grams.	*Cereal A's Nutrition Facts label indicates a **serving size of 55 grams** and **added sugars amount per serving of 13 grams***
2) *Divide* the added sugars amount per serving by the serving size in grams.	13 grams added sugar ÷ 55 grams serving size = 0.236

3) If the answer is less than or equal to 0.212, then the cereal is within the required added sugar limit and may be creditable in the CACFP.	0.236 is *greater than* 0.212 **X** Therefore, Cereal A exceeds the added sugar limit and is *not* creditable in the CACFP.

Rounding Method Steps	Example
• On the Nutrition Facts label, identify: i. **Serving size** in grams. ii. **Added sugars amount per serving** in grams.	*Cereal B's Nutrition Facts label indicates a **serving size of 30 grams** and **added sugars amount per serving of 5 grams***
• *Multiply* the serving size in grams by 0.212.	30 grams serving size x 0.212 grams serving size = 6.36
• If the answer to Step 2 ends in 0.5 or more, *round up* to the next whole number i. If not, *round down* to the next whole number ii. **EXAMPLES:** 4.59 ends in 0.59 and *rounds up* to 5; 4.24 ends in 0.24 and rounds down to 4.	6.36 ends in 0.36. 0.36 is *less than* 0.5, so *round down* to 6.
• Compare the result of Step 3 to the **added sugars amount per serving**. ✓ If the added sugars amount is less than or equal to the whole number calculated in Step 2, the cereal meets the added sugars limit and may be creditable in the CACFP.	5 grams of added sugar is *less than* 6 (the result of Step 3). ✓ Therefore, Cereal B is within the added sugar limit and is creditable in the CACFP.

Other Breakfast Cereal Considerations

Sites/providers:

- May not mix a high sugar cereal with a low sugar cereal to meet the sugar limits.
- Are encouraged to offer healthy options if adding toppings to breakfast cereals.
- Must calculate the sugar content of homemade cereal (e.g., granola) based on the recipe used. The standardized recipe must be on file for review.

Substituting Vegetables for Grains in Tribal Communities

To accommodate cultural food preferences and address product availability and cost concerns in outlying areas, sites/providers who serve primarily American Indian participants may serve any vegetable to meet the grain requirement. These vegetables may include breadfruit, prairie turnips, plantains, sweet potatoes, and yams.

Popcorn

Popcorn is a whole grain food, a good source of fiber, and can credit toward whole grain-rich requirements as follows:

- ¾ cup (0.25 oz/7g) popped = ¼ oz equivalent

- 1½ cups (0.5 oz/14g) popped = ½ oz equivalent
- 3 cups (1.0 oz/28g) popped = 1 oz equivalent

Using Popcorn as an Ingredient

When using popcorn as part of a recipe or as an ingredient, sites/providers should consider:

- **Minimum quantities:** Popcorn must be present in minimum creditable amounts (¾ cup or ¼ ounce equivalent) to count toward grain requirements
- **Required documentation and references:**
    - *For commercial products:* Obtain a Product Formulation Statement
    - *For in-house recipes:* Follow standards in the Food Buying Guide
    - *For popcorn flour products:* Reference Exhibit A in the Food Buying Guide
- **Healthier preparation:**
    - Limit toppings high in sodium, sugar, or saturated fat (salt, caramel, butter),
    - Consider alternatives like herb blends or serving plain popcorn, and
    - Use discretion to determine if a popcorn product qualifies as a grain-based dessert (and follow grain-based dessert guidance accordingly).

Age Group Considerations for Serving Popcorn

When serving popcorn, sites/providers should consider:

- **Portion sizes:** Large volumes may be too much for young children.
- **Safety:** Popcorn may be a choking hazard. Sites/providers should assess participants' ability to swallow safely before serving popcorn to young children, disabled individuals, or older adults.

4122.8 Meat/Meat Alternates

Sites/providers may credit meats and meat/alternates when:

- Served in a main dish, or in a main dish and one other menu item.
- Measured as the edible portion as served of:
    - Lean meat, poultry, or fish;
    - Alternate protein products;
    - Cheese, or an egg;
    - Cooked dry beans, peas, and lentils, including cooked pasta made of 100% legume flour;
    - Peanut butter; or
    - Any combination of these foods.

NOTES:

- Meats/meat alternates may be offered in place of the entire grains requirement, up to 3 times per week at breakfast.
- Sites/providers may serve cheese and eggs to meet all or part of the meat/meat alternates component.

Nuts and Seeds

Sites/providers may allow nuts and seeds and their butters, along with peanuts and peanut butter, to credit for the full meats/meat alternates component. Nuts and seeds can also be served with another meat/meat alternate to meet the full requirement. Nut and seed meals or flours can credit if they meet all requirements in *Alternate Protein Products* in this section.

EXCEPTION: Acorns, chestnuts, and coconuts cannot be used as meat alternates because of their low protein and iron content.

When serving nuts, seeds, and their butters, sites/providers should consider:

- **Portion sizes:** If a site/provider determines a portion is too large for a participant, they should serve them in combination with another meat/meat alternate to meet the full component requirement.
- **Safety for young children:** Nuts and seeds present a choking hazard for children ages 1 to 3. Sites/providers should finely mince nuts and seeds if serving to young children.
- **Food allergies:** Sites/providers should know of participants' food allergies and prevent exposure to allergens. *See Modifications for Disability Reasons*.
- **Nutrition:** Sites/providers are encouraged to offer nuts, seeds, and their butters in their most nutrient-dense form, without added sugars and salts.

Dry Beans, Peas, and Lentils

Sites/providers may serve cooked dry beans, peas, and lentils:

- To meet all or part of the meat/meat alternates component,
- As a meat alternate or as a vegetable, but not as both in the same meal,
  - **EXCEPT** when *different* beans, peas, or lentils are served
  - **EXAMPLES:** When served in the same meal, black beans on a salad may credit as a vegetable and black beans in chili may credit as a meat alternate. However, when served in the same meal, *black beans* on a salad and *kidney beans* in chili may *both* credit toward meat alternates, because they are *two different beans*.
- Including:

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

Pasta Products Made of 100 Percent Legume Flour(s)

Sites/providers may credit pasta products made of 100% legume flour(s):

- As 1/2 cup of cooked pasta crediting as 2 ounce equivalents of meat alternate,
- When served with another meat/meat alternate, such as tofu, cheese, or meat, and
- As a vegetable or a meat alternate, but not as both in the same meal.

EXAMPLE: 100% red lentil pasta may credit as either 2 ounce equivalents of meat alternate or 1/2 cup legumes, but not both. If credited as a meat alternate, the site/provider must offer an additional meat/meat alternate.

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

Yogurt

Sites/providers may credit yogurt:

- To meet all or part of the meat/meat alternates component,
- As four ounces (weight) or 1/2 cup (volume) crediting as one ounce of the meat/meat alternates component,
- That is plain or flavored, unsweetened, or sweetened,
- Containing no more than 12 grams of added sugar per 6 ounces (2 grams of added sugar per ounce),
    - Sites/providers may not mix non-creditable yogurt with creditable yogurt to meet the added sugar limits
- For ADCs, only when not also being used as a fluid milk substitute in the same meal.

Sites/providers may not credit noncommercial or commercial standardized yogurt products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits or nuts, or similar products.

Shelf-stable, Dried, and Semi-dried Meat, Poultry, and Seafood

Sites/providers may credit shelf-stable, dried, and semi-dried meat, poultry, and seafood (e.g., beef jerky, summer sausage) toward the meat component of a meal or snack by:

- Following crediting rules for other products made from meat, poultry, or seafood; and
- Documenting meal contributions using a Product Formulation Statement or CN Label.

After requesting a Product Formulation Statement (PFS) from the manufacturer, sites/providers should evaluate the PFS to ensure:

- The creditable meat ingredient listed on the Product Formulation Statement matches or closely resembles that on the product label (e.g., Ground Beef, Not More Than 30% Fat or Beef Round Roast);
- The creditable meat ingredient listed on the Product Formulation Statement has a similar description to a food item in the *Food Buying Guide for CNPs*; and

- The creditable amount does not exceed the finished weight of the product.

Surimi Seafood

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

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

**Surimi seafood crediting ratios vary by portion size due to 0.25 oz rounding requirements.*

NOTE: Surimi seafood may contain other creditable food ingredients besides seafood. To identify other creditable ingredient quantities, sites/providers may obtain a CN label or Production Formulation Statement from the manufacturer.

Tofu, Tempeh, and Other Soy Products

Sites/providers may credit tofu, tempeh, and some other soy products as meat alternates according to the guidelines in this section. They may not credit seitan or soy cheeses.

Tofu

Sites/providers may credit tofu toward the meat alternate requirement:

- If it meets the following criteria:
  - Commercially prepared,
  - Derived from soybeans, and
  - Made with the basic ingredients of whole soybeans, one or more food-grade coagulants (typically a salt or an acid), and water.
- As 2.2 ounces by weight, or 1/4 cup by volume, containing 5 or more grams of protein, crediting as 1.0 ounce equivalent of meat alternate, and
- Served as is in a dish or is easily recognizable as a meat substitute, such as:
  - Minced in lasagna as a ricotta cheese replacement
  - In meat substitute products such as links, sausages, or tofu burgers (see note below on required documentation).

NOTES:

- Tofu that mimics another food group (e.g., tofu noodles) or is used only to add texture or nutrition (e.g., in smoothies, sauces, or baked desserts) is **not creditable** as a meat/meat alternate because it is not easily recognizable as a meat substitute.
- Sites/providers may use the following yield information for purchasing and crediting: 1 pound of tofu with 37 grams of protein yields 7.28 quarter-cup servings and provides 7.25 ounce equivalents of meat alternate.

- When crediting meat substitute products (e.g., links, sausages, burgers) sites/providers must have a CN Label or Product Formulation Statement documenting that the tofu ingredient provides at least 5 grams of protein per 2.2 ounces by weight or ¼ cup.

Tempeh

To diversify menus to meet vegetarian preferences and/or cultural/religious dietary restrictions of participants, sites/providers may credit tempeh toward the meat alternate requirement:

- As 1 ounce by weight of tempeh as 1 ounce equivalent of meat alternate, and
- When ingredients are limited to soybeans (or other legumes), water, tempeh culture, and possibly vinegar, seasonings, and herbs.

Sites/providers may credit tempeh containing other creditable foods (e.g., brown rice, seeds, or vegetables) as meat alternates, grains, and/or vegetables when:

- Foods are present in minimum creditable quantities (1/8 cup or 1/4 ounce equivalents), and
- A CN Label or Product Formulation Statement from the manufacturer is used to identify quantities of tempeh and other creditable foods.

Soy Yogurt

To provide a non-dairy alternative to yogurt, sites/providers may credit soy yogurt toward the meat alternate requirement:

- As 1/2 cup (or 4 ounce by weight) of soy yogurt as 1 ounce equivalent of meat alternate
- If it is commercially prepared
- If it contains no more than 12 grams of added sugar per 6 ounces (2 grams of added sugar per ounce)

Alternate Protein Products (APP)

Sites/providers may credit Alternate Protein Products (APP) -- formerly referred to as "Vegetable Protein Products" – toward the meat/meat alternate requirement:

- To meet all or part of the meat/meat alternates component,
- On an "ounce-for-ounce" basis for fully hydrated APP,
    - In blended or combination products, if the total meat/meat alternate credit is less than or equal to the portion weight of the product as served
- When served alone or combined with meat/meat alternates; and
- If meeting all standards in Appendix A of 7 CFR Part 226, also listed below.

Sites/providers can serve APPs in:

- Non-hydrated, partially hydrated, or fully hydrated form; or
- Commercially prepared meat/meat alternate products combined with APP or a product that contains only APP (e.g., beef patties, pizza topping, taco fillings).

Examples of APP: Soy flours, soy concentrates, soy isolates, whey protein concentrate, whey protein isolate, casein.

NOTES:

- Processed foods like vegetarian burgers may *contain* APPs but cannot be considered APPs because they include other ingredients (seasonings, breading, etc.).
- Sites/providers must accurately describe menu items containing APPs to help staff select items consistent with participants' dietary needs.
- "Meat" and "protein" are not synonymous terms. Meal pattern requirements specify meat/meat alternates in terms of lean cooked meat, not protein (*See Section 11000, Resources, for the Meat Versus Protein Fact Sheet*).

APP Quality and Protein Standards

An APP, whether used alone or in combination with meat or meat alternate, must:

- Be processed to remove some non-protein components;
- Be safe and suitable edible products produced from plant or animal sources;
- Have protein with biological quality of at least 80% that of casein, as measured by the Protein Digestibility Corrected Amino Acid Score (PDCAAS); and
- Contain a minimum of 18% protein by weight when fully hydrated or formulated (including any water, fat, oil, color, flavors, or other ingredients added to dry APP).
    - When prepared from a dry concentrated form, the APP must maintain moisture content such that the fully hydrated mixture has a minimum of 18% protein by weight (or an equivalent amount for dry or partially hydrated forms).

Documentation Requirements for APPs

Sites/providers must maintain manufacturer documentation showing:

- Protein quality standards mandated by Child Nutrition Programs, as indicated above;
- Protein percentage in dry APP and as prepared; and
- For APP mixes:
    - Weight of dry APP in the package;
    - Instructions for hydration; and
    - Instructions for combining APP with meat/meat alternates.

4123 Water Availability

For children one year or older, child care centers, day care home providers, and At-Risk afterschool sites must:

- **Offer plain potable (drinking) water to children throughout the day**
    - This is especially important if children cannot request it themselves
    - Increase frequency during/after physical activity, hot days, or dry winter months
    - For very young children, use visual cues (showing cup/pitcher) while verbally offering water

- **Make plain potable water available to children throughout the day** by:
    - Self-serve options (e.g., cups near the sink, accessible water pitchers), or
    - Providing upon request
- **Make plain potable water available to children during mealtimes,** understanding water:
    - Does not need to be served alongside the meal,
    - Is not part of a reimbursable meal and cannot replace fluid milk,
    - Could be offered at snack when milk is not served as one of the two required components, and
    - Should be limited before and during meals for young children, as it may reduce food and milk consumption.

Sites/providers are encouraged to provide water in place of high calorie sweetened drinks (juice drinks, soda, and sports drinks) served outside of meal times.

NOTE: These requirements do not apply to adult day care center (ADC) sites/providers. However, sites/providers are encouraged to ensure drinking water is offered and made available to adult participants throughout the day.

Preparing Flavored Waters

Sites/providers may choose to flavor water with vegetables, fruit, or herbs, noting they:

- Must also make potable water available;
- Must follow all State and local health sanitation codes in preparation;
- Will not receive reimbursement for commercially prepared (or bottled) flavored water; and
- May not credit fruits and/or vegetables added to water toward the fruit or vegetable components of a reimbursable meal or snack.

Purchasing Bottled Waters

When safe drinking water is not readily available, sites/providers may purchase plain potable water as a reasonable, necessary, and allowable cost, if:

- Approved by TDA; and
- The water is not being consumed by adults or employees.

Except for in the cases above, sites/providers will not receive reimbursement for purchasing water (i.e., bottled waters).

NOTE: Water quality testing costs to ensure safety of drinking water may be allowable (See Section 7000, *Financial Management,* for additional information).

Water for Infants

Sites/providers must obtain parental approval before offering water to infants. While older infants eating solids may need small amounts of water to supplement their diets, sites/providers must limit serving water or other diluted liquids to infants to reduce risk of water intoxication. **USDA recommends parents consult their infant's healthcare provider about water and daily fluid intake.**

If parents approve water for their infant, sites/providers should follow these general guidelines:

Infants Who Are...	May Have...	Exception(s)
Only receiving breastmilk and/or formula (not eating solid foods)	**No additional water** beyond breast milk or properly diluted infant formula*	*In very hot climates, infants who are not exclusively breastfed may need small amounts of water (no more than 8 oz per day). Sites/providers should recommend parents/guardians seek guidance from their infant's healthcare provider.
Eating solid foods	4-8 oz of water per day	

4124 Smoothies

Sites/providers may credit smoothie ingredients as follows:

- As a **milk component**:
  - For fat-free or low-fat milk in smoothies; and
  - For commercially prepared smoothies, with a Product Formulation Statement (PFS) or CN Label confirming they contain ingredients that meet Federal, State, and local definitions of fluid milk.
  - **EXCEPTIONS:** Yogurt smoothies cannot replace fluid milk in any meal type, except for adults in ADCs who may be served 6 ounces of creditable yogurt in place of 8 ounces of fluid milk once per day.
- As a **meat/meat alternate component:**
  - For yogurt that contains no more than 12 grams of added sugar per 6 ounces (2 grams of added sugar per ounce); and
  - With yogurt being the only creditable meat/meat alternate allowed in a smoothie.
- As a **fruit and/or vegetable component:**
  - When pureed and fresh, frozen, or canned; and
  - As juice, and therefore subject to the limitations regarding juice service:
    - May be served at only one meal, including snack(s), per day
    - Sites/providers cannot serve creditable juice at one meal and a smoothie at another in the same day
    - This includes smoothies made with vegetables from the dry beans, peas, and lentils subgroup, which will also credit as juice.

<u>Additional Requirements for Smoothies</u>

Sites/providers:

- Must have a CN label or Product Formulation Statement (PFS) from the manufacturer to adequately document how the smoothie product meets Federal meal requirements;
- May credit smoothies made with juice fortified with vitamins and minerals (e.g., calcium, Vitamin D) if all other requirements are met;
- May credit concentrated fruit puree and concentrated fruit juice when reconstituted to full (original) strength; and
- May not credit smoothies containing dietary and herbal supplements, such as whey protein powder and Ginkgo biloba.

4130 Meal Variations

NOTE: TDA may approve variations to meal components on an experimental or ongoing basis for any institution or facility that can demonstrate these variations are *nutritionally sound* and *necessary to meet ethnic, religious, economic, or physical needs*.

4131 Religion

TDA may approve variations in meal patterns to meet religious needs. Sponsored sites/providers must first submit their alternate meal plan and justification to their sponsor; the sponsor must submit their sites' plans to TDA for final approval. All plans must be approved by TDA <u>prior</u> to the CE or site/provider claiming reimbursement.

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

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

CEs/sites serving Jewish populations that request an exemption must choose from the following three options:

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

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

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

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

- **Option II –** The CE or site/provider may serve milk at an appropriate time before or after the meal service period, in accordance with applicable Jewish Dietary Law.
- **Option III –** The CE or site/provider may serve a snack juice component at lunch or supper. Serve the lunch or supper milk component as part of a snack.

NOTE: An exemption is not necessary for breakfasts.

4132 Modifications for Disability Reasons

Sites/providers must make meal modifications for participants with disabilities that restrict their diet, including food allergies and lactose intolerance. All meal modifications must be related to the disability.

When making a meal modification, sites/providers must:

- Provide them at no cost to the participant;
- Document all substitutions; and
- Provide modified meal services in the most integrated setting appropriate to the participant's needs.
  - Participants may not be excluded from the meal service area.

    EXAMPLE: While children with severe food allergies may sit at a separate table for safety, that table must not also be used to segregate children as punishment.

4132.1 Written Medical Statement

To receive reimbursement for modified meals that do not meet the meal pattern requirements, sites/providers must obtain a **medical statement** that meets the following requirements:

- Is written by a **state-licensed healthcare professional or registered dietitian**. A state-licensed healthcare professional is an individual authorized to write medical prescriptions under state law.
- Sufficiently describes the participant's dietary restrictions, such as foods to be omitted and recommended alternatives.
  - **EXAMPLES:**
    - *For food allergies*: Foods to omit and recommended alternatives

        - *For infants needing special formula*: Specific FDA Exempt or low-iron formula required
        - *For non-dairy substitution needs*: Specific milk substitute required
- Is kept on file at both the CE and site/provider locations (if different).

Sites/providers are recommended, but not required, to obtain a medical statement when:

- Only textural modifications are needed, or
    - **EXAMPLE:** Pureeing carrots for a participant who cannot swallow whole carrots.
- Substitutions can be made with another creditable food within the same meal component.
    - **EXAMPLE:** Substituting ham and cheese for a participant with peanut allergies when peanut butter sandwiches are being served that day.

4132.2 Implementation Guidelines

When implementing meal modifications, sites/providers should:

- Communicate effectively with parents/guardians, adult participants, and their representatives:
    - Include instructions for requesting substitutions in information packets
    - Request clarification if medical statements lack sufficient detail to properly implement the meal modification
    - Consult a registered dietician, if available
- Make reasonable accommodations:
    - Sites/providers are not required to provide the exact substitution requested but must work with the parent/guardian, adult participant, or their representative to offer a modification that effectively accommodates the disability and allows for equal program participation.
    - Consider the age, maturity, and abilities of the participant.

      EXAMPLE: Older children may take greater responsibility for their dietary restrictions, while younger children may need more assistance with selecting and eating meals.
    - Consider expense and efficiency in implementation

      EXAMPLE: If a specific brand or item is requested, sites/providers are not required to provide the exact item; however, they cannot simply say "no" and must offer a safe and appropriate alternative that doesn't contain the allergen.

NOTE: Sites/providers may not request additional information to determine if the participant really has a disability. Implement known accommodations while waiting for any clarification.

4132.3 Financial Considerations

- Standard reimbursement rates apply for modified meals.
- Added costs for modifications are allowable Program costs in the food budget.
- When modification expenses exceed reimbursement rates, the site/provider must cover the difference (may use nonprofit food service account funds).

Sites/providers are not required to make modifications that would result in a fundamental alteration in the nature of the Program.

- A modification is considered as resulting in a fundamental alteration if it is so expensive that it would make Program operation unfeasible.

  EXAMPLE: A specific expensive medical infant formula
- Sites/providers must evaluate a modification's expense against their total available resources.
- Sites/providers must still work with parents/guardians to develop reasonable alternatives that effectively accommodate the disability and allow for equal program participation.

Sites/providers concerned about modifications making fundamental alterations to their programs should contact their ESC for assistance.

4132.4 Participant-Provided Components

Parents/guardians, adult participants, or their representatives may provide one or more meal components if the site/provider supplies at least one required component. Sites/providers cannot require a parent/guardian, adult participant, or their representative, to provide one or more components for participants with disabilities.

4133 Variations for Non-Disability Reasons

Sites/providers should consider participants' dietary preferences when planning and preparing meals and snacks. These preferences include, but are not limited to, cultural, ethical, Tribal, and religious preferences.

4133.1 Guidelines for Non-Disability Variations

All variations must meet meal pattern requirements specified in this section. TDA acknowledges operational and budgetary constraints may limit site/provider ability to accommodate all preferences. TDA encourages sites/providers to strive for inclusive meal services whenever possible.

4133.2 Financial Considerations

When variation expenses exceed reimbursement rates, the site/provider must cover the difference (may use nonprofit food service account funds).

4133.3 Participant-Provided Components

Parents/guardians, adult participants, or their representatives may provide one meal component if:

- The component meets the requirements described in this section, and
- The site/provider provides all remaining components.

4134 Fluid Milk Substitution

Sites/providers must make meal modifications for participants with disabilities (including lactose intolerance) as described in *Modifications for Disability Reasons*. For fluid milk substitutes *that do not meet the nutritional standards of cow's milk outlined in the table below*, sites/providers must obtain a medical statement signed by a state-licensed healthcare professional or registered dietitian.

Sites/providers may, at their discretion, offer fluid milk substitutes for participants with non-disability dietary needs when:

- The participant identifies the reason for the substitution request; and
- A written request is submitted by a child's parent or guardian, an adult participant, or their representative, a state-licensed healthcare professional, or registered dietician.

Sites/providers are not required to offer the specific substitute requested. When fluid milk substitution expenses exceed reimbursement rates, the site/provider must cover the difference (may use nonprofit food service account funds). Any substitute offered for non-disability reasons must meet minimum nutrient requirements (see table below) and be fortified according to FDA guidelines.

Nutrition Requirements for Fluid Milk Substitutes

Nutrient	Per Cup (8 fl oz)
Calcium	276 mg*
Protein	8 g*
Vitamin A	150 mcg* retinol activity equivalents (RAE)
Vitamin D	2.5 mcg
Magnesium	24 mg
Phosphorus	222 mg
Potassium	349 mg
Riboflavin	0.44 mg
Vitamin B-12	1.1 mcg

**mg = milligrams; g = grams; mcg = micrograms*

4134.1 Participant-Provided Fluid Milk Substitute

Parents/guardians, adult participants, or their representatives may provide one meal component, including a fluid milk substitute that is nutritionally equivalent to cow's milk (as outlined in the table above). The site/provider must provide all remaining components.

4135 Service of Traditional Foods

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

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

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

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

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

- Ensure that the food received is whole, gutted, gilled, as quarters, or as a roast, without further processing.
- Make a reasonable determination that the
  - Animal was not diseased;
  - Food was appropriately butchered, dressed, transported, and stored to prevent contamination, undesirable microbial growth, or deterioration; and
  - Food will not cause a significant health hazard or potential for human illness.
- Carry out any further preparation or processing of the food at a different time or in a different space from the preparation or processing of other food for the Program to prevent cross-contamination.
- Clean and sanitize food-contact surfaces of equipment and utensils after processing the traditional food.
- Label donated traditional food with the name of the food item.
- Store the traditional food separately from other food for the Program, including through storage in a separate freezer or refrigerator or in a separate compartment or shelf in the freezer or refrigerator.
- Follow federal, state, local, county, Tribal, or other non-Federal law regarding the safe preparation and service of food in public or nonprofit facilities.
- Follow other such criteria as established by the Secretary of Agriculture and Commissioner of the U.S. Food and Drug Administration.

Donation of traditional foods must be documented as required in Section 7000.

4140 Meal Service Styles

CEs and sites/providers may serve meals:

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

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

EMERGENCY SHELTER NOTE: Meals consumed in private family quarters in emergency shelters are not reimbursable. Only meals served in congregate settings qualify for reimbursement, with one exception: meals for infants (birth through 11 months), including breast milk (whether expressed or directly breastfed), served in private family quarters may be claimed if the shelter provides all required components to the parent/guardian and maintains records documenting that sufficient food was provided to meet meal pattern requirements.

4141 Congregate Feeding

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

Failure to comply with the congregate feeding requirement will result in the disallowance of meals and may lead to placement in the serious deficiency process.

For At-Risk, refer to *Taking Food Off-site* in this section for additional information and allowable practices.

4142 Cafeteria/Pre-plated/Unitized

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

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

4143 Family-style

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

In family-style meal service:

- A sufficient amount of prepared food must be placed on each table to provide the full, required portions of each of the meal components for all participants at the table and to accommodate staff who eat with the participants;
- Second meals cannot be claimed for reimbursement.
- **At sites serving children**, participants should initially be offered the full, required portion of each meal component. The family style meals service allows children to make choices in selecting foods and the size of initial servings;
  - It is the responsibility of staff, during the course of the meal, to actively encourage each child to accept service of the full, required portion of each meal component of the meal pattern, e.g., if a child initially refuses a meal component, or initially does not accept the full, required portion of a meal component, the CE or site/provider staff should offer the meal component to the child again;
- **At adult day care centers**, adults must be allowed to serve the meal components themselves, with the exception of fluids (such as milk and juice). During the course of the meal, it is the responsibility of the CE to actively encourage each adult to serve themselves the full required portion of each meal component of the meal pattern. CEs who choose to serve the fluids (including milk and juice) directly to the adults must serve the required minimum quantity to each adult; and

If the participant does not serve themselves a meal component or take the full minimum serving size of a meal component, the meal may still be reimbursed.

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

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

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

4144 Offer Versus Serve (Adult Day Care and At-Risk Centers Only)

Offer versus serve (OVS) is a menu planning and meal service approach that allows participants to decline foods in reimbursable breakfast, lunch, or supper meals. It reduces food waste and gives participants choice, while still ensuring nutritious meals.

OVS is:

- Only permitted in adult day care centers and at-risk centers
- Not allowable in child care centers or day care homes as it could undermine CACFP nutritional goals and hinder introduction of new foods to young children.

- Not allowed for snack
- Optional.

4144.1 OVS at Breakfast

The CACFP breakfast meal pattern requires three components: milk, fruits/vegetables (counted as one combined component), and grains. For breakfasts, CEs and sites may substitute meats/meat alternates for the entire grains requirement up to three times per week.

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

1. A serving of milk;
2. A food item from the combined fruit and vegetable component;
3. A food item from the grains component or meats/meat alternates component (as applicable); and
4. A food item from the vegetables and fruits, grains or meats/meat alternates component.

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

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

Here is an example of a reimbursable OVS breakfast menu:

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

4144.2 OVS at Lunch or Supper

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

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

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

EXCEPTIONS:

- For lunch and supper, centers may serve two different vegetables, rather than a serving of vegetables and a serving of fruit.
- For adult day care center suppers only, fluid milk is optional. If milk is not offered, the adult must select at least three different meal components for the meal to be reimbursable.

Similar to OVS at breakfast, all of the food items offered at lunch and supper must be different from each other. For example, while apple slices and apple sauce are two types of apples that are not identical, they are the same food item. Unlike OVS at breakfast, OVS at lunch or supper meals requires a participant to take at least three meal components, rather than three items, to ensure the participant takes an adequately nutritious meal.

A participant must select at least the minimum required serving size of the components for them to be counted. It is the participant's choice to select or decline a meal component. Adult day care centers and At-risk afterschool centers may not specify what meal components a participant must select.

Here is an example of a reimbursable OVS lunch menu with two different vegetables:

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

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

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

The CE or site must decide how dry beans, peas, and lentils are credited **prior** to meal service, and it cannot be switched during meal service. Therefore, given the menu above, an adult could not select milk, roasted chicken, and black beans and have them count as three components, because the CE or site has already designated black beans as a meat alternate.

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

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

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

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

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

If the CE or site offers combination foods or two or more food items from one meal component, such as bread and rice, instructions or signs must be available to let staff and participants know what choices make up a reimbursable meal. The instructions and signs should let a participant know that they cannot select two of the same food items or components. For example, a participant could not select two pieces of toast and milk and have it count towards a reimbursable breakfast because only two different food items were selected. Additionally, a participant could not select two servings of chicken and one serving of rice and have it count toward a reimbursable lunch because only two components were selected.

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

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

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

4145 Share Tables (Child Care Center and At-Risk Only)

Children who do not want to consume certain food or beverage items included in their meal may return whole food or beverage items to a share table. CEs should establish clear guidelines for meal components that may and may not be shared or reused as part of a later reimbursable meal.

Meal components recommended for sharing:

- Unopened pre-packaged items, such as a bag of baby carrots or sliced apples stored in a cooling bin.
- Whole pieces of fruit, such as apples or bananas.
- Unopened milk, if immediately stored in a cooling bin maintained at 41˚ F or below.

Meal components **not** recommended for sharing:

- Unpackaged items, such as salad in a bowl without a lid.
- Packaged items that can be opened and resealed.
- Open items, such as an opened bag of baby carrots.
- Perishable foods, when a temperature control mechanism is not in place.

If state and local laws permit sharing food items that require cooling, CEs should establish strict food safety guidelines to prevent the risk of foodborne illnesses:

- Maintain proper temperature and temperature logs (41˚ F or below) by storing meal components in a temperature-controlled storage bin, such as an ice tub or cooler.
- Make note of expiration dates on packaged foods and do not intermix reused items with items that have not yet been prepared and served.
- Decide how many times a food item can be reused.

CEs should supervise the share table at all times to ensure compliance with food safety requirements:

- Ask site staff to ensure packaging of items placed on the share table is not open, punctured, or otherwise compromised.
- If cooling bins are used, have site staff monitor the bin to ensure that time and temperature control requirements are met.
- Invite children to participate as "share table helpers" or to assist site monitors to teach them about food safety and recycling.

CEs should promote the share table to children and families:

- Provide children and families with information about share table guidelines.
- Ask for input from parents and guardians and ensure families are comfortable with their children participating in the share table option.
- Explain the share table concept to children and emphasize the importance of healthy eating and trying new foods whenever possible.
- Display signage outlining share table "rules" and encouraging recycling.

The food and beverages returned to a share table may then be used in a number of ways:

- Children may take an additional helping of a food or beverage item from the share table at no cost;
- Food or beverage items left on the share table may be served and claimed for reimbursement during another meal service; and/or
- Food or beverage items may be donated to a nonprofit organization, such as a community food bank, homeless shelter; or other nonprofit charitable organization (see *Excess Meals* in this section).

CEs and sites must ensure the use of a share table is in compliance with all local and State health and food safety codes.

CEs and sites must also ensure the following:

- Steps are taken to encourage each child to consume his/her meal, including preparing appealing meals and serving them in a convenient manner;
- Milk is only recycled when the carton is unopened; and
- Reuse of food and beverage items only occur in situations where it is necessary to prevent food waste.

4146 Prohibition of Separating Male and Female Participants

Regardless of which meal service style is chosen, CEs and sites/providers may not separate participants on any protected basis, including sex, during a meal service, whether or not that participant is participating in the meal service.

USDA recognizes there are some situations in which separating males and females may be permissible.

A CE may request an exemption to the prohibition against separation by sex in the following circumstances:

- Religious institutions – meal service is provided at a religious institution that operates under the dictates of the religion with which they are affiliated.
- Juvenile correctional facilities – meal service is at a correctional facility where combining members of the opposite sex would present a potential safety risk.
- Facilities that separate males and females as normal part of their operations – meal service is at a facility such as a camp that separates males and females.
- Other – those situations that do not meet the criteria above. These types of requests will be reviewed on a case-by-case as must be approved by TDA and the FNS.

CEs requesting this exemption will use the *Male/Female Separation Exemption Request* form located in the Application Module, Download Forms page in TX-UNPS.

Refer to Section 6000, *Civil Rights,* for further information on discrimination and protected classes.

4147 Taking Food Off-site (At-Risk Only)

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

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

Allowing children to take one item off-site is not a requirement, but CEs and sites that choose to implement this flexibility must have the capacity to monitor when food items are being taken off-site to prevent any food safety or integrity issues from arising.

CEs and sites do not have to receive approval from TDA prior to implementing this flexibility; however, if it is determined at a review that there is not adequate oversight, TDA may prohibit a CE or site from using this flexibility in future meal services. TDA's decision to prohibit allowing food items to be taken off-site is not an appealable action. Prior to implementing this flexibility, CEs must ensure local and State health codes allow food items to be taken off-site for later consumption.

4150 Meal Time Requirements

4151 Child Care Centers, Day Care Home Providers, and Adult Day Care Centers

Child care centers, day care home providers, and adult day care centers must ensure that the following meal time restrictions are observed:

- Two hours must elapse between the beginning of any meal (breakfast, lunch, and supper) or snack;
- The duration of a meal service (breakfast, lunch, and supper) must not exceed two hours;
- The duration of a snack service must not exceed one hour;
- Service of supper must begin no earlier than 4:00 p.m.

Additionally, a meal service cannot begin any later than 30 minutes before the ending time (close of business) indicated as the normal hours of operations on the *Site Application – Centers* or *Provider Application*, as applicable.

CEs and sites/providers may use a different schedule for infants younger than one year old.

4152 At-Risk Centers

At-Risk centers must ensure that the following meal time requirements are observed:

- Breakfast meal service may be no more than **two hours** in duration;
- Lunch meal service may be no more than **two hours** in duration;

- Supper meal service must <u>begin no earlier than</u> the end of the normal school day and may be no more than **two hours** in duration;
- Snack service may be no more than **one hour** in duration and must <u>begin no earlier than</u> the end of the normal school day;
- Two hours must elapse between the beginning of a:
    - Meal service and the beginning of a snack (this includes a snack served through the NSLP Afterschool Care Program (ASCP))
    - Snack (this includes a snack served through the NSLP ASCP) and the beginning of a meal service
    - Snack (this includes a snack served through the NSLP ASCP) and the beginning of another snack (if the CE/site has received prior approval, see note below)

NOTES:

- Supper and snack meal service times on the weekends or school holidays do not have to be the same as the meal service times during the week.
- Snack meal service does not have to occur prior to supper meal service.
- TDA may approve a CE or site to serve two snacks (as opposed to one snack and one meal).
- Extended day schools may participate as long as the program begins after the regular school day has ended. Refer to Section 10, *Afterschool Snacks & Meals*, of the NSLP *Administrator's Reference Manual*, for guidance on how schools determine the end of the regular school day.

4160 Meal Service Documentation

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

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

- Ingredients listing/nutrition facts label
- A child nutrition (CN) label
- A Product Formulation Statement from the food manufacturer

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

4161 Meal Production Record

CEs and sites/providers must document the menu and meal production prior to the meal service using the following forms or alternate documentation that captures the same information:

- **Infant meals -** *Daily Meal Production Record – Infants* (H1530-A)
- **Non-infant meals at child care centers and At-Risk sites** - *Daily Meal Production Record – Child Care* (H1530)
- **Non-infant meals at day care home providers** - *Daily Meal Count, Attendance, and Meal Production Record* (H1539)
- **Adult meals** - *Daily Meal Production Record – Adult Day Care* (H1654), or alternate form(s).

Food items used must be documented as purchased using the Food Buying Guide.

Additionally, meals that contain fluid milk must specify the type of milk, including fat content (for example, unflavored fat-free), and meals that contain grains must specify when the grain is whole grain-rich (for example, wholegrain-rich (WGR) rolls, whole wheat pasta).

Infant Feeding NOTE: When a mother directly breastfeeds her infant on site, it must be documented as breastfed (BF) or mother breastfed (MBF), and the quantity used would not be completed.

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

Changes to the record must be noted and initialed.

4162 Leftover/Recycle

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

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

NOTE FOR INDEPENDENT CENTERS AND SPONSORS OF CENTERS:

Documentation of leftover/recycled food must be maintained **daily** to demonstrate compliance with the meal pattern and operation of a nonprofit food service. CEs and sites may use TDA's *Record of Leftover/Recycled Food (*H1568*)* or the applicable daily meal production record for their site type to document leftover/recycled food:

- *Daily Meal Production Record – Infants* (H1530-A) (CCC),
- *Daily Meal Production Record – Child Care* (H1530) (CCC)

- *Daily Meal Production Record – Adult Day Care* (H1654) (ADC)

Sites must attest daily to the amount of leftover food, **even if there is no leftover food**. For this reason, using TDA's Meal Production Record, which contains a field for leftover food, is recommended; leaving that field blank is an attestation that there was no leftover food at that service.

4163 Donations

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

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

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

4164 Infant Feeding Preference, as Applicable

The CE and site/providers must maintain documentation of a parent's/guardian's preference for infant feeding, which allows the parent/guardian to decline the formula offered as well as indicate the infant's developmental readiness for solid foods.

The documentation must include the following elements in order to claim reimbursement for meals that are served to infants:

- Infant's name;
- Infant's date of birth;
- Name of center/provider;
- The name and type of infant formula the CE or site will provide;
- Whether the parent (or guardian):
  - Will bring the breast milk;
  - Declines the formula offered and will bring the infant formula. Adequate information must be provided by the parent (or guardian) about the alternate infant formula to determine whether the infant formula meets infant meal pattern requirements (e.g., the name brand of the infant formula and whether the infant formula is iron-fortified);
  - Will bring solid foods that the infant is developmentally ready to accept;
  - Wants the center to provide the infant formula;
  - Wants the center to provide infant cereal and other food items that the infant is developmentally ready to accept according to the Infant Meal Pattern;
- Parent's (or guardian's) signature; and

- Date of signature.

CEs and sites/providers may use TDA's *CACFP Infant Feeding Preference* form to document infant feeding preferences or may create their own document to record this information.

NOTE: As situations change, such as a state-licensed healthcare professional or registered dietitian changing the infant's formula, the CE or site/provider must update the information in the infant's file. The information must be updated within one month of the infant moving from one age category to the next.

4165 Ingredients Listing/Nutrition Facts Label

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

4166 CN Labels

A Child Nutrition (CN) label is a USDA-authorized food product label that guarantees a product's meal pattern contribution and provides a warranty against audit claims when the product is used according to manufacturer instructions.

The only products eligible for CN labels are:

- Food products contributing to a minimum of 0.50 ounce equivalent (oz eq) meats/meat alternates and served in the main dish, and

  EXAMPLES: cheese or meat pizzas, meat or cheese burritos, breaded fish, chicken nuggets

- Juice drinks and juice drink products containing a minimum of 50 percent full-strength juice by volume.

  EXAMPLES: frozen juice bars, sherbet

  NOTE: 100% juice products are not eligible for a CN label.

If a CE or site/provider purchases and serves a product without a CN label and the product does not meet CACFP requirements, the meal/snack will not be reimbursable without a Product Formulation Statement (PFS) for the item. See Section 11000, *Resources* for more information.

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

4166.1 Requirements for Documenting CN Labeled Products

CEs and sites/providers must retain one of the following:

- The original CN label from the product carton,
- A photocopy of the CN label shown attached to the original product carton,
- A photograph of the CN label shown attached to the product carton, or
- A hard or electronic watermarked CN label that:
    - Is provided by the vendor,
    - Displays the product name and six-digit CN number, **and**
    - Is supported by the Bill of Lading (invoice) as documentation.

NOTES:

- Photocopied or photographed CN labels must be visible and legible.
- Watermarked CN labels may be used when the CN logo and statement are presented *separately* from the actual product carton (e.g., during the bidding process by manufacturers). Because product information on a watermarked CN label can be altered, TDA encourages sites/providers to verify the validity and accuracy of the CN label.

4166.2 CN Label Information

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

- Product name,
- Ingredients listed in descending order by weight,
- Inspection shield or mark for the appropriate inspection program,
- Establishment number (for meat, poultry, and seafood items only),
- Manufacturers or distributor's name and address, and
- CN label statement. The CN label statement must be an integral part of the product label and include the following information:
    - CN logo, the distinctive border around the CN statement,
    - Six-digit product identification number that appears in the upper right-hand corner of the CN label statement,
    - A statement of the product's contribution toward meal pattern requirements,
    - A statement specifying that the use of the CN logo and CN label statement is authorized by USDA FNS, and
    - The authorization/approval date.

Example of a CN label statement, where:

- 000000 is the six-digit product identification number, and
- 05-84 indicates the month and year of original authorization/approval (May 1984).

    - CN
000000
This 3.00 oz serving of raw beef pattie provides when cooked
CN 2.00 oz equivalent meat for Child Nutrition Meal Pattern CN
Requirements. (Use of this logo and statement authorized
by the Food and Nutrition Service, USDA 05-84.)
CN

CN Label Authorization/Approval and "Valid Until" Dates

CN labels are valid for five years if the manufacturer remains an authorized CN producer and the product formulation does not change. Sites/providers must reference the "Valid Until" date on the CN Label Verification Report to confirm current authorization status, because:

- The date printed on the CN label shows either the original authorization date *or* the most recent authorization date, and
- Manufacturers may continue using labels with the original authorization date to prevent label waste.

EXAMPLE: A CN label originally authorized on February 15, 2024 remains valid until February 15, 2029. If the manufacturer successfully reauthorizes the same product, the "Valid Until" date on the CN Label Verification Report will update to five years from the new authorization date, even if the physical label still displays "02-24".

4167 Product Formulation Statements

When purchasing a processed product without a CN label, the CE or site/provider may request a Product Formulation Statement (PFS) from the manufacturer. A PFS can document meal pattern contributions for any processed food product.

A PFS from a food manufacturer must:

- Appear on signed company letterhead;
- Include the product's name, code number, and serving/portion size;
- List creditable ingredients that match or closely resemble those on the product label;

  EXAMPLE: If the PFS states "ground beef (not more than 20% fat)," the product label should use similar wording.
- For meat/meat alternates containing Alternate Protein Product (AAP), include documentation confirming compliance with APP requirements listed in 4122.8 Meat/Meat Alternates; and
- Demonstrate how creditable ingredients contribute to meal pattern requirements.
    - Sites/providers must verify these calculations.

- A single PFS may include crediting for multiple meal components.

  EXAMPLE: Cheese pizza may credit as meat/meat alternate, grain, and red/orange vegetable.

CEs and sites/providers must:

- Review the manufacturer's PFS before service to verify credibility;
- Maintain proper documentation for each commercially prepared product used to meet USDA requirements; and
- Confirm the food product meets specifications and has the correct code number.

Sample Product Formulation Statements to assist with documentation can be found on the USDA FNS Manufacturer Documentation website: https://www.fns.usda.gov/cn/manufacturer-documentation

NOTES:

- Sites/providers must not request a PFS or additional crediting information when manufacturers provide a valid CN label or watermarked CN label.
- Product Formulation Statements are sometimes referred to by other names, such as product analysis, specifications, or recipe analysis.
- TDA will support requests for technical assistance related to acceptable documentation and crediting.

4168 Counting Meals and Snacks

Site/provider meal counting systems must provide accurate counts of reimbursable meals and snacks served to eligible participants.

At child care centers, adult day care centers, and At-Risk sites, meal counts must be taken **at the point of service** (where it is observed that the participant receives a reimbursable meal).[1]

While point-of-service counting is not required at day care homes, it is recommended. A meal is creditable when a participant receives all required components in the correct quantities.

To be counted and claimed, meals and snacks must meet meal pattern requirements and must be:

- Served by a CE or site/provider that TDA has approved for participation in the CACFP.
- Served to eligible participants.
- Eaten at the site/provider location (congregate feeding).

[1] If a CE or site is serving **children** meals cafeteria style, a staff member must be stationed at the end of the serving line to count the meals as they are served. If a CE or site serves meals family style, a staff member must count the meals when they are served.

EXCEPTION: At-risk centers may allow children to take one vegetable, fruit, or grain item offsite to eat at a later time. This item must be from their own meal or from a share table left by another child (See *Share Tables*).

- Served to participants who meet CACFP age requirements for the applicable sub-program.
- Procured by the CE or site (Refer to *Meal Pattern Requirements* in this section for exceptions concerning infant meals provided by the parent/guardian).
- Prepared by a source (self-prep or vended) that TDA has approved.
- Served at a time approved by TDA in the site application.

4168.1 Meal Service Record

CEs and sites/providers must record meal counts daily using the applicable form on SquareMeals or an alternate form that contains all required information:

- *Daily Meal Count and Attendance Record* (H1535) - for child care centers, adult day care centers, and emergency shelters
- *Daily Meal Count, Attendance, and Meal Production Record* (H1539) – for day care home providers
- *Daily Meal Count and Attendance Record* (H1535-AT) – for At-Risk sites

Any changes to the form must be initialed and dated by the person making the change.

CEs and sites/providers using alternate documentation must ensure all information from the applicable TDA form is documented (NOTE: The information can be documented on separate forms). All alternate documentation must be available for review to avoid disallowances.

CEs and sites/providers must ensure that all items on the form are completed in accordance with the instructions on the applicable form. General information captured includes:

- Date of food service.
- Names of participants in attendance.
- Age of each participant (optional for ADC).
- Meal counts, by meal type, for each participant.
- Total participant meals, program staff meals, and non-program meals served.

Refer to the applicable form's instructions on the CACFP Administration/Forms page of SquareMeals for all required elements.

Centers and sites that possess the means to complete the meal count form electronically **at the point of service** may do so provided that they:

- Have the means to securely capture the required CE or site representative date and signature; and

- Have the ability to print the form on demand, to ensure compliance with the records availability requirements as outlined in Section 5000, Visits, Reviews, and Audits. CEs and sites must have a plan in place to address technical difficulties such as system failures.

NOTE: Electronic completion at point of service does not mean taking the meal count manually and then entering the attendance and meal counts in a spreadsheet or software package and disposing of the original source documentation. CEs and sites must maintain the original documentation for the required retention period.

4168.2 Second Meals During One Meal Service

CEs and sites/providers must plan and prepare meals with the intent of serving no more than one of each approved meal type per participant per day.

Second meals may be claimed only if the second meals were served due to an unanticipated fluctuation in participation resulting from conditions beyond the CE's or site/provider's control; and:

- The meals were served cafeteria/pre-plated/unitized style. CEs and sites/providers may not claim second meals under any condition when the meals are served family style.
- The second meals complied with meal pattern requirements.
- The second meals were served to eligible program participants.
- The CE or site/provider submits documentation justifying the second meals.
- TDA approves the justification for serving second meals due to reasons beyond the CE's or site/provider's control.

CE's and site/provider's meal production records, or other documentation, must show that the quantity of each prepared component was adequate for each meal served (including any second meals) and contained the minimum of each required component.

EXAMPLE: Based on the number of participants eating breakfast, the cook prepares lunch for 100 participants. Threatening weather conditions cause 50 participants to leave before lunch. In this situation, weather caused a fluctuation in attendance, which in turn resulted in sufficient food being prepared to serve the remaining 50 participants a complete second meal. Therefore, if all the above requirements are met and TDA approves, the CE or site may claim second meals served to the 50 participants remaining at the center.

4168.3 Documenting Meals Served on Field Trips

Sites/providers may claim reimbursement for meals that are served during a field trip if:

- The activity is directly related to the participant's care; and
- All program requirements are met.

Program requirements include, but are not limited to, the following:

- Meals must meet meal pattern requirements for the appropriate age group and must be served to eligible participants.

- All state and local health department standards, including maintaining food at proper temperatures, must be followed.
- Daily meal production records that include the food items and amounts of food prepared must be maintained.
- Meal counts for meals served to eligible participants must be documented on the applicable daily meal count and attendance record, or acceptable alternate.
- Meals must be provided by the approved source as indicated in the site application (self-prep or vended).
    - If a food service management company (FSMC) supplies the meals, they must be provided in a manner and detail prescribed in contract.
- Meals purchased from restaurants or “fast food” outlets are not reimbursable without a Product Formulation Statement from the food manufacturer.
- Meals that are served to participants who are in transit to the site/provider or their homes cannot be claimed as reimbursable meals.

Field trips must be documented in writing, and must include the following information:

- Date of trip;
- Destination of trip;
- Duration (departure and return time) of the trip;
- Meal types served on the trip;
- A description of the location where the meal was served;
- A description of the method used to ensure that foods are held at proper temperatures;
- A list of foods served on the field trip; and
- A list of everyone that participated in the field trip.

In addition, the employee completing the documentation of the field trip must sign a certification statement that reads:

> **"I certify that to the best of my knowledge the information reported about this field trip is true and correct. I understand misrepresentation may result in prosecution under applicable state or federal statutes. I certify that meals were prepared, delivered, and served in accordance with all state and local health department standards."**

A sample form, *Field Trip Food Service Documentation*, is provided in Section 11000, *Resources*. CEs and sites are not required to use this form, but must ensure that the required elements are recorded on the day of the field trip.

CEs and sites/providers are not required to obtain prior approval from TDA when planning a field trip. However, a CE may require that sites obtain prior approval for field trips as a condition of reimbursement for meals served off-site.

NOTE: Occasionally, field trips may include a visit to a Summer Food Service Program (SFSP) site. If receiving meals from an SFSP site, the CACFP site cannot claim reimbursement for those meals nor serve and claim the same meal type later the same day (for example, a second lunch).

4170 Food Preparation

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

4171 On-site Food Preparation

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

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

Foods that are pre-fried, flash-fried, or par-fried by a commercial manufacturer may be served but must be reheated by a method other than deep-fat frying. CEs and sites are strongly discouraged from serving any type of deep-fat fried foods to infants.

4172 Vended Meals

4172.1 Food Service Management Companies

CEs and sites/providers may choose to purchase meals from a food service management company/vendor. These meals may be purchased in bulk or as units, but the sites/providers must ensure that all meals meet CACFP meal pattern requirements.

Food service management companies (FSMCs) are generally for-profit vendors, such as caterers. Independent centers and sponsors of sites/providers that contract with an FSMC must follow the procurement guidelines provided in Section 7000, *Financial Management,* before contracting with an FSMC. Unaffiliated sites and providers are not required to follow federal procurement regulations when contracting with an FSMC.

4172.2 Program Meals Obtained from a School Food Authority

CEs and sites/providers that obtain meals through a contract with a school food authority (SFA) that participates in the National School Lunch Program/School Breakfast Program must adhere to the following procedures:

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

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

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

- **Food Service Management Company/Vendor Site Review –** CEs and sites do not have to complete an on-site review of the food preparation facility.

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

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

4172.1 Monitoring FSMC/Vendor Contracts

If a CE or site contracts with a Food Service Management Company (FSMC) or vendor to provide food service, the CE or site must ensure that the FSMC remains in compliance with the terms of the contract. While an annual on-site monitoring review of each food preparation site used by the FSMC/vendor is not required, the CE or site should use the *Food Service Management Company / Vendor Monitor Review* (H1529) or similar form to document that the FSMC is in compliance with the terms of the contract.

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

4180 Excess Meals

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

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

Some potential alternatives include, but are not limited to:

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

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

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

- Documentation of:
    - Date of excess food;
    - Reason for the excess food; and
    - What was done with the excess food (i.e., donated).
- For donated food, a written agreement with the agency receiving the donated food that includes at minimum:
    - Terms of the agreement;
    - Duties of the agency; duties of the CE or site; nondiscrimination;
    - Representatives of the agency receiving donated food not an officer, employee, or agent of the CE or site;
    - Liability;
    - Hold harmless and indemnification; and
    - Certification of liability insurance.

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

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

Section 4000
Managing the Program

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4000
Managing the Program

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

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

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

4100 REMOVED - SEE SEPARATE SECTION, *MEAL SERVICE*

The previous Section 4100 content has been removed from this section and separated into its own document that consolidates content from all four TDA CACFP handbooks. Refer to the CACFP Policy/Handbook page on SquareMeals and select Section 4100, *Meal Service*, from the handbook table to see information on meal pattern requirements, meal planning, and other requirements related to CACFP meal service.

4200 Program Administration

If a CE creates, develops, or produces materials with federal funds, the USDA FNS may reproduce or publish the material. USDA FNS may also authorize others to reproduce, use, or publish the material. A CE may reproduce any material developed by TDA or USDA as long as the reproduction is:

- Used in an USDA FNS program.
- Not used for profit.

4210 Management and Monitoring

CEs are responsible for the management and monitoring of the Program in their centers; additionally, a sponsor is responsible for the management and monitoring of the sites that it sponsors. These responsibilities include:

- Making pre-approval visits (sponsors only).

- Adding, submitting changes for, and terminating sites.
- Ensuring sites maintain a current license/exemption (if applicable).
- Conducting training.
- Conducting reviews (sponsors only).
- Providing technical assistance.
- Disbursing payments to sites (sponsors only).
- Ensuring sites submitted for participation are not disqualified from participation in any Child Nutrition Program, as well as ensuring site staff in principal positions or performing CACFP functions are not disqualified (see Section 1000, *Introduction* for a list of other Programs).

4211 Parental Notification

CEs must notify households that the CE participates in the CACFP.

Additionally, sponsors must ensure that their sites provide the same notification. The CE may provide this information or may require the sites to provide this information to the households. The *Building for the Future* flyer located at https://www.squaremeals.org under CACFP Administration and Forms must be used to satisfy this requirement.

The flyer presents the information in English and Spanish (other translations will be made available upon request) and provides:

- A brief statement about the CACFP.
- Notice of the CE's/site's participation in the CACFP.

The USDA and TDA toll-free telephone numbers for households with questions or concerns about the CACFP.

- The name and telephone number of the CE with administrative oversight of the center or sponsored site.

CEs must retain documentation of their method of distribution.

CEs and/or sites must:

- Distribute the flyer annually by the beginning of each CACFP Program Year;
- Provide the flyer to households who enroll children for child care or who participate in the at-risk program during the CACFP Program Year
- Ensure that the English and Spanish versions of this flyer are posted where it can be easily seen.

Additionally, sponsors must also post the English and Spanish versions of the flyer in their administrative office(s).

4212 Documentation of Attendance

CEs and sites must maintain a daily attendance log or roster of the children attending their educational or enrichment program. The daily attendance roster must contain each child's name and age.

CEs and sites can use TDA's *Daily Meal Count and Attendance Record* (H1535-AT), or alternate, to record attendance and meal counts. If the at-risk afterschool care center uses TDA *Daily Meal Count and Attendance Record* (H1535-AT) it will satisfy the attendance log or roster requirement.

4213 Policy Statement

The Contracting Entity Management Plan contains the *Free and Reduced-Price Policy Statement* which CEs must agree to in order to participate in the CACFP. CEs must sign this statement with their initial application and with the renewal application, if needed.

4214 State Government Privacy Policy

Texas' State Government Privacy Policy legislation stipulates that an individual has the right to review their personal information as maintained by a state agency. An individual also has the right to request the correction of inaccurate information. TDA is required to consider the request, but reserves the right to determine whether the requested correction is appropriate.

A privacy statement is written at the bottom of all TDA forms that request personal information about a specific individual, and at the bottom of the TX-UNPS logon page under TDA Disclaimer.

4215 Making Changes in Operations

A CE must notify TDA of changes to its operation (such as changing meal times) through its CE application or site application in TX-UNPS, and mail, fax or email any required documentation to TDA.

The following information must be submitted:

- *CE Application* or *Site Application* (in TX-UNPS) as appropriate; and
- Any additional documentation needed dependent on the change. For example, if the change is an address change, you must submit a copy of the new license that reflects the

address change and proves the site is licensed to operate at that location or if exempt, documentation of compliance with health and safety requirements.

NOTE: A site cannot be approved if it does not meet the licensing and/or health and safety requirements.

4220 Training and Education

Proper training is an important element in ensuring compliance with Program requirements and minimizing disallowances, unallowable costs and termination of Program participation. CEs are required to provide and attend training, as described below.

Educating staff, sites, and participants in proper nutrition, physical activity, and healthy lifestyles (including limiting the use of electronic media) is also an important part of the Program purpose. Although promoting physical activity and limiting the use of electronic media is not required, CEs are encouraged to devote time to educating participants. The cost of these efforts can be an allowable expense and is further described in Item 4333 *Physical Activity and Limiting the Use of Electronic Media* and in Item 7400, *Nonprofit Food Servic*e, and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

4221 Required Training - Sponsoring Organizations

- New site staff must receive training **prior** to the site's participation in the Program and annually thereafter.
- New site staff who performs key activities must receive training **prior** to beginning key activities.
- Participating site staff must attend training annually.
- A new employee of the sponsoring organization (SO) who performs key activities must receive training **prior** to beginning key activities.
- A current employee of the SO must receive training annually.

Sponsors must plan trainings that are appropriate to the experience level and duties of the sponsor's and site's staff. Experienced and inexperienced staff should not get the same training year after year; however, repetition of some information may be necessary to ensure continued Program compliance.

Although all topics must be included in the annual training, a sponsor may provide more information on some topic than others. A sponsor's training should always address areas in which deficiencies have been identified.

There is no requirement for the amount of time spent on training. Therefore, a sponsor may only need a short review on some topics, while other topics require a longer period of time.

Training may be conducted in a variety of ways to meet the needs of the sponsor's and site's staff. Sponsors may use classroom style, on-site, distance learning (with the exceptions listed below), or other innovative training techniques, provided the training is properly documented and the training accomplishes the regulatory requirements for training content and frequency.

However, sponsors may **not** fulfill the training requirements by providing a training video to and requiring staff to certify that they watched it. Training on video, web-based training, and/or other independent learning approaches are only permitted to fulfill the requirement if there are means to verify that each trainee has actually received the training, i.e., pre- and post-tests, activities, exercises, etc. Sponsors may use electronic signatures to verify that sponsor and site staff has completed electronic training.

4221.1 New Site and Sponsor Staff

The sponsor, its staff and new site staff who perform key CACFP activities must participate in or receive training in the following areas and subtopics:

- Program Meal Pattern
  - Child meal pattern
  - Serving sizes for age groups
  - Creditable foods
  - Meal service styles
  - Accommodating special needs diets
  - Menu planning
- Meal Counts
  - Daily (point of service)
  - Weekly
  - Monthly
- Claims Submission
  - Due date
  - Late claims
  - Adjusted claims
- Claims Review Procedures
  - Review elements
  - Adverse Action
  - Appeal rights
- Recordkeeping Requirements
  - Daily, weekly, monthly forms
  - Meal production records
  - Attendance records
  - Financial records

    - Record retention
- Purchase meals (FSMC/Vendor)
- Reimbursement System
    - Administrative fee
    - Payment schedule
- Civil Rights

TDA provides Civil Rights training materials on the TDA website at http://www.squaremeals.org, click on F&N Resources, then "Training," select "Online Education and Self Study", and finally choose the English or Spanish course.

TDA may require sponsors to attend additional training during the Program Year. Sponsors will be notified if and when mandatory training is scheduled.
Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

4221.2 Participating Sites and Current Sponsor Staff

After a sponsor's first Program Year of participation, the sponsor, its staff, and site staff that perform key CACFP activities must participate in or receive training annually in the same areas and subtopics as listed in 4221.1.

TDA may also require sponsors to attend additional training during the Program Year. Sponsors will be notified when mandatory training is scheduled.

During the Program Year staff may change. New sponsor and site staff are required to be trained on the areas and subtopics. It is the sponsor's responsibility to ensure new site employees who will be performing key activities receive training prior to beginning these CACFP functions.

The sponsor can develop a method to ensure this training is performed and compliance with the requirement for the staff member to participate is met. This can include the sponsor providing the training as needed, or developing a training plan with the site for a trained site employee to provide the training. All documentation requirements apply in either situation.

The sponsor is responsible for verifying compliance with the training requirements during their review of the site, if the site personnel provided the training.

4222 Required Training - Independent Centers

CEs must train each staff member before they assume any CACFP duty and must train each staff member annually thereafter.

Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

Training must cover the following topics:

- Program Meal Pattern
- Meal Counts
- Claims Submission
- Claims Review Procedures
- Recordkeeping Requirements
- Reimbursement System
- Civil Rights

Training for each staff member can be specific to their CACFP duties or can include all topics as listed above. Training must be documented as indicated below.

4223 Physical Activity and Limiting the Use of Electronic Media

Educating staff, sites, parents, and children on the importance of physical activity and limiting the use of electronic media can contribute to the wellness, healthy growth, and development of young children.

USDA has provided informational materials related to physical activity and limiting electronic media use as well as others which are free to CEs and sites and can be downloaded and printed for use in trainings and other settings. To obtain these materials visit the USDA website at:

http://healthymeals.nal.usda.gov/cacfp-wellness-resources-child-care-providers

CEs and sites are encouraged to use these free resources before developing or purchasing others. However, under certain circumstances, CEs and sites may be able to develop and distribute their own materials related to physical activity and limiting electronic media use and use CACFP funds to pay for those materials.

CEs and sites must ensure:

- The materials (e.g., training curricula, toolkits, newsletters, pamphlets, etc.) emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media; and
- Costs for these materials are reasonable, necessary, and allocable as to their content in relationship to CACFP requirements.

Reference Item 7400, *Nonprofit Food Servic*e and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* for further information.

4224 Training Documentation

CEs must maintain documentation of all training sessions that include the following:

- Date of training,
- Location of training,
- Training topics,
- Names of participants, and
- Written or electronic signature of the participants.

When a site completes a required training course, the sponsor must present the site with written documentation acknowledging their completion of the training.

The documentation must include the:

- Name of the site.
- Title of the training.
- Date that the training was completed.
- Name of the sponsoring organization.
- Name of the trainer who provided the training.
- Written or electronic signature of an authorized representative of the sponsoring organization.

NOTE: TDA materials are produced using federal funds for TDA-sponsored training events and as a tool for attendees to reference and use for training their own staff. No part of TDA's publications may be reproduced in any form or by any means for profit or for any purpose other than use in USDA FNS programs. TDA cannot guarantee that non-TDA sponsored Program training will contain current or correct information. CEs should contact TDA if there are any questions about information received during training.

4230 Sponsoring Organizations – Management and Monitoring

A sponsor is responsible for the management and monitoring of the sites that it sponsors. These responsibilities include:

- Making pre-approval visits.
- Adding, submitting changes for, and terminating sites.
- Ensuring sites maintain a current license/certification/health and safety documents.
- Conducting training.
- Conducting reviews.
- Providing technical assistance.
- Disbursing payments to sites.
- Ensuring sites submitted for participation are not disqualified from participation in any Child Nutrition Program, as well as ensuring site staff in principal positions or performing CACFP functions are not disqualified (see Section 1000, *Introduction* for a list of other Programs).

4231 Adding, Terminating, or Making Changes to Sites

Sponsors must inform sites that are not part of their same legal entity that they may apply directly to TDA for participation in the CACFP as an independent CE.

CEs must submit all information and documentation to TDA by the last day of the month for the request to be effective for that same month. In some cases, TDA may be able to approve participation or changes to participation with an effective date in the month prior to submission.

If the information and/or documentation submitted by the CE is incorrect or incomplete, TDA will return the incomplete information and request incomplete documentation before approval. Submitting incomplete or incorrect information or documentation could result in the effective date being a month or months **after** the initial submission, so TDA recommends requests are submitted as early in the month as possible to allow for corrections to be made during the same month.

REMINDERS:

- Sites and site staff disqualified or excluded from participation in a Child Nutrition Program may not participate in the CACFP.
- Sites that lose their license/certification may not be claimed or participate in the CACFP. It is the sponsor's responsibility to ensure each site is licensed before submitting an application for participation or a claim each month.

4231.1 Adding a Site

Pre-Approval Visit

Before a sponsor enrolls a site, the sponsor must make a pre-approval visit to the site.

EXCEPTIONS: A CE that is a school is not required to conduct a pre-approval visit to its school sites that are currently participating in the NSLP and a currently participating SFSP sponsor in good standing does not have to conduct a pre-approval visit to its sites that are currently participating in the SFSP.

During the visit, the sponsor must discuss Program benefits and requirements and determine whether the site can provide food service in accordance with CACFP requirements.

A sponsor must use TDA's *Pre-Approval Visit* (H1606-AT-P) form, or alternate, to document pre-approval visits.

The sponsor must inform each unaffiliated site that it can apply directly to TDA for participation in the CACFP as an independent CE.

After conducting the pre-approval visit, a sponsor may complete the site application and the budget detail in TX-UNPS and mail, fax or email the remaining required documentation to TDA.

The following information must be submitted:

- *Sponsoring Organization Monitoring Staff Information* (in TX-UNPS) (applies to sponsors of 25 or more sites, including sites being added);
- *Contracting Entity Budget* (in TX-UNPS) amending the sponsor's budget as the addition of sites will increase the budget;
- *Site Application* (in TX-UNPS) for each site;
- Documentation of area eligibility;
- Documentation of educational or enrichment program; and
- A copy of the site's license/certification to provide day care services, **or** exemption from licensing; and
- If exempt from licensing, documentation of compliance with health and safety requirements.

NOTE: A site cannot be approved if it does not meet the licensing and/or health and safety requirements.

The sponsor must also obtain from an unaffiliated site, and maintain in the site's file, a copy of the following:

- Articles of Incorporation, Assumed Name Certificate or Certificate of Formation;
- IRS 501(c)(3) tax-exemption (if applicable);
- Organizational chart; and,
- Governing Body Awareness.

Sponsors must maintain on file a copy of the original *Site Application* from TX-UNPS and the *Permanent Agreement Between Contracting Organization and Child Care Site*, for each site they sponsor and will enter the dates of signature for both the sponsor representative and site representative from the agreement on the site application (applies to unaffiliated sites only). Sponsors must provide each site a copy of the original site application and *Permanent Agreement Between Contracting Organization and Child Care Site*.

TDA has two types of *Permanent Agreement Between Contracting Organization and Child Care Site*.

- *Permanent Agreement Between Contracting Organization and Child Care Site* - applies to the traditional sponsor/site relationship in which the sponsor passes through funds to the site for operation of the nonprofit food service.
- *Permanent Agreement Between Contracting Organization and Child Care Site – Sponsor provides Meals and Snacks* - applies to sponsors that also serve as the meal service vendor and conducts the nonprofit food service for the site and retain 100% of the meal reimbursement.

The sponsor must ensure it has executed the proper agreement with the site before submitting the site for approval.

These documents must be provided, upon request, to TDA. In addition, the completeness and accuracy of these documents will be evaluated during administrative and site reviews.

TDA will not approve a site's participation, and sponsors may not claim reimbursement for meals served at a site, before the latest of the following dates:

- Effective date of the site's license;
- Date of the pre-approval visit;
- Beginning effective date on the *Permanent Agreement Between Contracting Organization and Child Care Site* (unaffiliated sites);
- Latest date that the *Permanent Agreement Between Contracting Organization and Child Care Site* (applies to unaffiliated sites only) is signed by the site or CE; or
- Date of participation that TDA assigns.

Example: The beginning effective date on the *Permanent Agreement Between Contracting Organization and Child Care Site* is February 21, 2018; the site's license is effective March 1, 2018, the pre-approval visit was conducted March 10, 2018. The earliest the site could begin claiming would be March 10, 2018, the date of the pre-approval visit.

NOTES:

- Reference handbook Item 2241, *Licensing,* for exemptions from licensing requirements.
- Submitting additions, terminations and changes via paper may delay the approval process. TDA highly recommends CEs use TX-UNPS.

4231.2 Documentation of Area Eligibility

At-risk afterschool care center sites must be located in the attendance area of a public school (elementary, middle, or high school) where at least 50 percent of the students are eligible for free or reduced price meals. **NOTE:** CEs may not round up a percentage. A percentage such as 49.94 cannot be rounded up and would not qualify the site as area-eligible.

CEs must use the free and reduced-price percentages provided on the current school data list when determining eligibility. If no school in the attendance area in which the site is located meets the 50 percent or greater percentage, the site cannot be qualified as area eligible.

EXCEPTION: If a CE can obtain from the school in the attendance area in which the site is located documentation for a more recent month that demonstrates that the school meets the 50 percent or greater percentage, that documentation may be submitted to qualify the site as area eligible.

CEs must verify with the school, by written or verbal verification, that the site is located in the school's attendance area. CEs must also verify with the school, by written or verbal verification, that the school in whose attendance area the site is located draws their attendance from a specific neighborhood.

EXCEPTION: Some rural areas or small towns will have a single school that serves the entire town or Independent School District (ISD). In this case, it is acceptable for the "specific neighborhood" from which the school draws attendance to be the entire town or ISD.

Written documentation may include a map with school boundaries, a letter confirming school boundaries, etc. Verbal documentation may include a telephone conversation with an ISD official knowledgeable in school boundaries.

NOTE: CEs may not use data for magnet schools, charter schools, or alternate schools that serve the entire ISD, in determining a site's eligibility. **EXCEPTION:** sites located **in** magnet schools, charter schools, or alternate schools may use that schools free and reduced price enrollment data to determine area eligibility.

CEs must verify, by written or verbal verification from the ISD, that the school in whose attendance area the site is located does not target their attendance to children with special needs. Schools such as alternate schools and schools that primarily or only serve children with disabilities, etc., may not be used.

CEs must retain documentation of all school data used in its determination. Documentation includes, but is not limited to, the list of schools, copies of all written information that you receive from school officials (i.e., maps of school boundaries, letters confirming school boundaries, etc.), and written documentation of all verbal information received from school officials.

Documentation of verbal contacts with school officials must include:

- The name of the school being used for the area eligibility determination and the district in which the school is located;
- The name of the school official who was contacted;
- The date the school official was contacted;
- The phone number for the school official contacted; and
- The specific information you were given by the school official.

Failure to retain the required documentation could result in denial of a site's eligibility and adverse action against the CE.

NOTES:

- SFAs do not have to submit the above documentation for school sites.
- Currently participating SFSP sponsors do not have to submit documentation of area eligibility for sites currently participating in the SFSP unless the sponsor used census data to establish area eligibility.

4231.3 Terminating a Site

To terminate (close) a site, sponsors may complete the process in TX-UNPS and mail, fax or email any required documentation to TDA.

The following information must be submitted:

- *Sponsoring Organization Monitoring Staff Information* (in TX-UNPS) (applies to sponsors of 25 or more sites, this is not needed if the termination of sites decreases your sponsorship to below 25); and
- *Contracting Entity Budget* (in TX-UNPS) amending the sponsor's budget as the termination of sites will decrease the budget.

4231.4 Making Changes to a Site

To make a change to a site (such as changing meal times), independent CEs, and sponsors may complete the site application in TX-UNPS and mail, fax or email the remaining required documentation to TDA.

The following information must be submitted:

- *Site Application* (in TX-UNPS); and
- Any additional documentation needed dependent on the change. For example, if the change is an address change, you must submit a copy of the new license that reflects the address change and proves the site is licensed to operate at that location or if exempt, documentation of compliance with health and safety requirements.

NOTE:

- A site cannot be approved if it does not meet the licensing and/or health and safety requirements.
- Submitting additions, terminations and changes via paper may delay the approval process. TDA highly recommends CEs use TX-UNPS.

Sponsors do not have to obtain the unaffiliated sites' signatures on the site application for changes the sponsor makes on behalf of the site; however, the sponsor must provide the site a copy of the site application with the changes indicated and maintain a copy on file. The sponsor can print the site application from TX-UNPS to accomplish this, or if completed via paper, mail the paper copy to the site. TDA will verify compliance with this requirement.

4232 Denials

A site's participation will be denied if:

- The site is already participating with another sponsor.
- The site requested a good cause transfer, but the transfer approval letter from TDA is not submitted with the application.

- The site, responsible principal(s) and/or responsible individual(s) has been declared seriously deficient and is on the National Disqualified List (NDL) or Texas Excluded SFSP List (TEXSL).
- The site is currently participating in the Program with a sponsor and signs the site application or *Permanent Agreement Between Contracting Organization and Child Care Site* prior to June 1 or after July 31.
- The site signed the site application and *Permanent Agreement Between Contracting Organization and Child Care Site* with multiple sponsors between June 1 and July 31. The sponsor whose *Permanent Agreement Between Contracting Organization and Child Care Site* shows the earliest sign date of both the site and the sponsor representative has the legally binding application and agreement.
- A copy of the site's license or alternate documentation, if applicable, was not submitted.
- The site is otherwise ineligible to participate.

4233 Resuming Site Participation

A sponsored site whose *Permanent Agreement Between Contracting Organization and Child Care Site* has been terminated by mutual consent that wants to resume its participation in the same Program Year must participate with the same sponsor, unless:

- The site has "good cause" for a transfer and TDA approves the site to transfer to another sponsor. Reference Item 4225, *Transfers*, for more information.
- The site signs a *Permanent Agreement Between Contracting Organization and Child Care Site* for the next Program Year during the open enrollment period (June 1 through July 31 of each Program Year).
- The site applies to participate directly with TDA.

Sponsors must ensure a resuming site is eligible to participate and submit the same items as required in Item 4220, *Adding, Terminating, or Making Changes to Sites*, to resume a site's participation.

4234 Open Enrollment

Sites that are at-risk afterschool care centers ONLY (do not participate in any other component of the CACFP) may select a new sponsor, without prior approval from TDA, between June 1 and July 31 of each Program Year. *Permanent Agreement Between Contracting Organization and Child Care Site* signed during the open enrollment period are effective August 1 of the same Program Year.

Sites that are traditional child care centers or emergency shelters that also participate in the at-risk afterschool care component may select a new sponsor, without prior approval from TDA, between June 1 and September 30 of each Program Year. *Permanent Agreement Between*

Contracting Organization and Child Care Site signed during the open enrollment period are effective October 1 of the following Program Year.

A new site can sign a *Permanent Agreement Between Contracting Organization and Child Care Site* with a sponsor at any time during the Program Year. If the *Permanent Agreement Between Contracting Organization and Child Care Site* is signed between the applicable open enrollment period above, the new site may choose another sponsor before the end of the applicable open enrollment period.

If a site signs a site application and *Permanent Agreement Between Contracting Organization and Child Care Site* with more than one sponsor during open enrollment, the *Permanent Agreement Between Contracting Organization and Child Care Site* that was signed earliest by both the sponsor representative and the site is legally binding.

Sponsors <u>may not</u> obtain a newly signed *Permanent Agreement Between Contracting Organization and Child Care Site* during the open enrollment period from existing sites in an attempt to prevent the sites from transferring to another sponsor during open enrollment. A newly signed *Permanent Agreement Between Contracting Organization and Child Care Site* signed by a Sponsor and its existing site will not be considered as "signed earliest by both the sponsor representative and the site" if the site signs with another sponsor during the open enrollment period.

Once a site has selected a sponsor, the site may not transfer to another sponsor without prior approval from TDA.

NOTE: A site may terminate its *Permanent Agreement Between Contracting Organization and Child Care Site* with the sponsor and apply to participate directly with TDA at any time during the year.

4235 Transfers

Prior to open enrollment, sponsors may not recruit nor enter into a *Permanent Agreement Between Contracting Organization and Child Care Site* for the next Program Year with sites that are currently participating or had participated with a sponsor in the CACFP in the current Program Year.

Sites that can demonstrate good cause for transferring from a sponsor may, with prior approval from TDA, enter into a *Permanent Agreement Between Contracting Organization and Child Care Site* with another sponsor at any time during the Program Year.

If a site wants to transfer to another sponsor, the site must:

- Request in writing, and receive, prior approval for the transfer from TDA.

- Demonstrate good cause for the transfer request.
- Submit a letter to its current sponsor stating the intention to terminate their agreement and the effective date of termination.

"Good cause" for transferring from the sponsorship of one sponsor to another during the Program Year is limited to the following conditions:

- A sponsor denies a site access to the Program.
- A sponsor reduces the level of benefit a site receives under the Program, for example, the sponsor:
  - Will not allow sites to claim suppers or weekend meals because the sponsor does not want to monitor those meal services.
  - Requests and receives approval to withhold more than 15% of the meal reimbursement annually for allowable administrative costs thereby reducing the reimbursement received by the site.
- Any other good cause as determined by TDA.

It is the site's responsibility to demonstrate that such conditions exist.

EXAMPLE: A site moved to an area where the current sponsor does not provide service. When approving a transfer based on good cause, TDA will specify the earliest dates on which a new *Permanent Agreement Between Contracting Organization and Child Care Site* may be signed or become effective. Transfers may be approved any time throughout the Program Year when there is good cause. The approval granted by TDA to transfer is only effective <u>one time</u>. A site may not use the same transfer letter to transfer between multiple sponsors.

Sponsors must submit the approval to transfer letter with all other required documentation when adding a site.

Occasionally, a sponsor will cease participation in the CACFP prior to the end of the Program Year. When this happens, TDA notifies the sites that they are approved to transfer to another sponsor. No sponsor may execute an agreement with a site that has been approved for transfer prior to the date in the notification.

Sponsors adding a site that was previously under the sponsorship of a sponsor that terminated during the same Program Year must submit the termination letter/approval to transfer letter with all other required documentation when adding the site.

Any costs sponsors incur while recruiting a current or former sponsor's sites, prior to June 1 or prior to the date that TDA has approved a site's transfer, are unallowable. At a minimum, sponsors records must include:

- Itemized accounts, including the source of non-Program revenue, of recruiting costs.
- The first date of contact with the site.

Failure to properly request a transfer may delay the processing of your claim or result in a reduced reimbursement.

4236 Training and Education

Proper training is an important element in ensuring compliance with Program requirements and minimizing disallowances, unallowable costs and termination of Program participation. Sponsors are required to provide and attend training, as follows:

- New site staff must receive training **prior** to the site's participation in the Program and annually thereafter.
- New site staff who performs key CACFP activities must receive training **prior** to beginning those activities.
- Participating site staff must attend training annually.
- A new employee of the sponsoring organization (SO) who performs key CACFP activities must receive training **prior** to beginning those activities.
- A current employee of the SO must receive training annually.

Sponsors must plan trainings that are appropriate to the experience level and duties of the sponsor's and site's staff. Experienced and inexperienced staff should not get the same training year after year; however, repetition of some information may be necessary to ensure continued Program compliance.

Although all topics must be included in the annual training, a sponsor may provide more information on some topic than others. A sponsor's training should always address areas in which deficiencies have been identified.

There is no requirement for the amount of time spent on training. Therefore, a sponsor may only need a short review on some topics, while other topics require a longer period of time.

Training may be conducted in a variety of ways to meet the needs of the sponsor and sites staff. Sponsors may use classroom style, on-site, distance learning (with the exceptions listed below), or other innovative training techniques, provided the training is properly documented and the training accomplishes the regulatory requirements for training content and frequency.

However, sponsors may **not** fulfill the training requirements by providing a training video and requiring staff to certify that they watched it. Training on video, web-based training, and/or other independent learning approaches are only permitted to fulfill the requirement if there are means to verify that each trainee has actually received the training, i.e., pre- and post-tests, activities, exercises, etc. Sponsors may use electronic signatures to verify that sponsor and site staff has completed electronic training.

4236.1 New Site and Sponsor Staff

The sponsor, its staff and new site staff who perform key CACFP activities must participate in or receive training in the following areas and subtopics:

- Program Meal Pattern
  - Child meal pattern
  - Serving sizes for age groups
  - Creditable foods
  - Meal service styles
  - Accommodating special needs diets
  - Menu planning
- Meal Counts
  - Daily (point of service)
  - Weekly
  - Monthly
- Claims Submission
  - Due date
  - Late claims
  - Adjusted claims
- Claims Review Procedures
  - Review elements
  - Adverse Action
  - Appeal rights
- Recordkeeping Requirements
  - Daily, weekly, monthly forms
  - Meal production records
  - Attendance records
  - Financial records
  - Record retention
- Purchase meals (FSMC/Vendor)
- Reimbursement System
  - Claiming percentage
  - Administrative fee
  - Payment schedule
- Civil Rights

TDA provides Civil Rights training materials on the TDA website at http://www.squaremeals.org, click on F&N Resources, then "Training," select "Online Education and Self Study", and finally choose the English or Spanish course.

TDA may require sponsors to attend additional training during the program year. Sponsors will be notified if and when mandatory training is scheduled.

Key CACFP activities include:

Budget	Procurement	Enrollment	Eligibility Determination
Attendance Records	Meal Preparation	Meal Service	Meal Counting
Claim Preparation	Monitoring	Civil Rights	Training

4236.2 Participating Sites and Current Sponsor Staff

After a sponsor's first program-year of participation, the sponsor, its staff, and site staff that perform key CACFP activities must participate in or receive training annually in the same areas and subtopics as listed in 4346.1.

TDA may also require sponsors to attend additional training during the program year. Sponsors will be notified when mandatory training is scheduled.

During the program year staff may change. New sponsor and site staff are required to be trained on the areas and subtopics. It is the sponsor's responsibility to ensure new employees who will be performing key activities receive training prior to beginning these CACFP functions.

The sponsor can develop a method to ensure this training is performed and compliance with the requirement for the staff member to participate is met. This can include the sponsor providing the training as needed and/or developing a training plan with the site for a trained site employee to provide the training. All documentation requirements apply in either situation.

The sponsor is responsible for verifying compliance with the training requirements during their review of the site, if the site personnel provided the training.

4236.3 Physical Activity and Limiting the Use of Electronic Media

Educating staff, sites, parents, and children on the importance of physical activity and limiting the use of electronic media can contribute to the wellness, healthy growth and development of young children.

Educating staff, sites, and participants in proper nutrition, physical activity and healthy lifestyles (including limiting the use of electronic media) is also an important part of the Program purpose.

Although promoting physical activity and limiting the use of electronic media is not required, CEs and sites are encouraged to devote time to educating participants. The cost of these efforts can be an allowable expense and is further described in Item 4333, *Physical Activity and Limiting the Use of Electronic Media* and in Item 7400, *Nonprofit Food Servic*e and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program for further information*.

USDA has provided informational materials related to physical activity and limiting electronic media use as well as others which are free to CEs and sites and can be downloaded and printed for use in trainings and other settings. To obtain these materials visit the USDA website at:

http://healthymeals.nal.usda.gov/cacfp-wellness-resources-child-care-providers

CEs and sites are encouraged to use these free resources before developing or purchasing others. However, under certain circumstances, CEs and sites may be able to develop and distribute their own materials related to physical activity and limiting electronic media use and use CACFP funds to pay for those materials.

CEs and sites must ensure:

- The materials (e.g., training curricula, toolkits, newsletters, pamphlets, etc.) emphasize the link between nutritious meals and physical activity and/or limiting the use of electronic media; and
- Costs for these materials are reasonable, necessary, and allocable as to their content in relationship to Program requirements.

Reference Item 7400, *Nonprofit Food Servic*e and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* for further information.

4236.4 Training Documentation

CEs must maintain documentation of all training sessions that include the following:

- Date of training,
- Location of training,
- Training topics,
- Names of participants, and
- Written or electronic signature of the participants.

When a site completes a required training course, the sponsor must present the site with written documentation acknowledging their completion of the training.

The documentation must include the:

- Name of the site.
- Title of the training.
- Date that the training was completed.
- Name of the sponsoring organization.
- Name of the trainer who provided the training.
- Written or electronic signature of an authorized representative of the sponsoring organization.

NOTE: TDA materials are produced using federal funds for TDA-sponsored training events and as a tool for attendees to reference and use for training their own staff. No part of TDA's publications may be reproduced in any form or by any means for profit or for any purpose other than use in USDA FNS programs.

TDA cannot guarantee that non-TDA sponsored program training will contain current or correct information. CEs should contact TDA if there are any questions about information received during training.

4237 Reviews

Sponsors must conduct reviews of each of their sites to determine compliance with all Program requirements.

Sponsors must use TDA's *Review* (H1606-AT) form, or alternate, during each visit.

All questions on the *Review* (H1606-AT) form are considered critical. However, each entry on the *Review* (H1606-AT) form, in and of itself, does not ensure that an organization fulfills its fundamental management responsibilities. Some entries are essential to ensuring that the Program's intent is being met with integrity.

Other entries denote that technical federal and state requirements are being met. Sponsors must ensure the form is completed in its entirety.

Sponsors that fail to complete all elements on the *Review* (H1606-AT) form will be subject to serious deficiency.

Sites participating in the CACFP are subject to unannounced as well as announced reviews by the sponsor, TDA, USDA or other State or Federal officials.

Sponsors must notify each site that:

- It will be reviewed on an announced or unannounced basis;
- Announced and unannounced reviews will be made during the site's normal hours of operations, including evenings and weekends if applicable;
- Monitors conducting announced and unannounced reviews will have photo identification that is current and must clearly identify the individual by name and the name of the sponsoring organization; and
- State or Federal officials that visit the site will carry photo identification that identifies them by name and agency.

A Texas Driver's License or Texas ID card is not sufficient to meet the photo identification requirement because it does not identify the individual as an employee of the sponsoring organization. State or Federal officials that visit the site will carry photo identification that identifies them by name and agency.

Sponsors are required to review each of their sites:

- At least three times per year (based on the 12-month review period of each site) unless the sponsor is averaging reviews.
- Once within the first four weeks of Program operations with the sponsor.
- At least once every six months (unless the sponsor is averaging reviews).

EXCEPTIONS:

- A School Food Authority (SFA) participating in only the at-risk component of CACFP may align its at-risk review with its required NSLP review.
- A Summer Food Service Program (SFSP) sponsor may follow the CACFP review requirements (this must be documented in its management plan), and must ensure that it:
    - Conducts three visits;
    - Once within the first four weeks of operations;
    - At least once every six months; **AND**
        - One review occurs during the summer, includes a review of SFSP requirements, includes a meal observation and be unannounced;
        - Two reviews occur during the school year, includes a review of CACFP requirements, includes a meal service observation and one be unannounced.

NOTE: See Item 4237.1, *Review Averaging*, for procedures and requirements for review averaging.

Two of the reviews conducted must be unannounced (unscheduled); the third review may be announced or unannounced at the sponsor's discretion, during each site's 12-month review period.

Prior to conducting an announced review, sponsors must notify the sites in writing. When planning unannounced reviews sponsors must ensure that the planning of the reviews does not allow for the unannounced review of a specific site to be conducted at the same time each year. For example, reviews that always occur during the third week of any given month, or never occur during the first week of a month when claims are being processed.

Unannounced reviews are designed to help sponsors ensure sites are operating the Program in accordance with regulations and policies, and unannounced reviews that are always scheduled at the same time, therefore are known to be expected by a site, are less likely to uncover management deficiencies and Program abuse, and undermine the intent of unannounced reviews.

A sponsor must observe an entire meal service at each required review. The duration of the meal service is designated on the *Site Application* (beginning and ending times). Only one review during the site's 12-month review period may include the observation of a snack rather than a meal. If a site participates on Saturday or Sunday, the sponsor must attempt to conduct at least one of the reviews on a Saturday or Sunday.

NOTE: If the monitor has observed *at least* the average number of children normally claimed by the site receive a meal during the meal service being reviewed; the monitor does not have to remain for the entire meal service.

A sponsor must provide oversight of all types of meal services being claimed by its sites. In order to provide adequate oversight, the sponsor must review all meal service types being claimed by all of their sites, including weekend meals. Reviewing all meal service types does not require a sponsor to annually conduct reviews of all meal services being claimed at each site. As long as, in the total of all reviews conducted, the sponsor provides oversight of all meal service types being claimed, the sponsor has met its responsibility. Meal service types include: breakfast, at-risk breakfast, lunch, at-risk lunch, supper, at-risk supper, snacks (am/pm/eve/at-risk) and/or weekend meals.

Sponsors may not observe the same meal service type at all reviews conducted for the same site.
EXCEPTION: If a site only serves one meal type, each review must include the observation of that meal service.

The following is a recommendation and not a requirement when reviewing meal service:
The number of breakfast, lunch, or supper reviews should be roughly the same percentage as the percentage of breakfast, lunch, or suppers claimed for reimbursement.

EXAMPLE: If 20% of the meals claimed by the sites are suppers, then 20% of the sponsor's effort should be devoted to reviewing suppers.
The sponsor must keep records of the locations, dates, times, and findings for each review. The sponsor is responsible for using the reviews as an opportunity for training the site. If problems are identified during a review, the sponsor must require corrective action to ensure that the problems are corrected. TDA expects reviews of sites that are experiencing difficulty operating the Program to exceed the minimum number and frequency.

4237.1 Review Averaging

Sponsors may choose to average their reviews as a means to better utilize resources, by conducting only two unannounced reviews of sites with few or no Program non-compliances or findings at the last 2-3 reviews, three reviews for the bulk of their sites, and four reviews per year of those sites that need closer oversight and technical assistance.

Sponsors are not required to obtain prior approval from TDA to implement review averaging. However, sponsors are responsible for informing TDA of their intent to utilize the option and to provide a description of their implementation plan.

If a sponsor decides to implement or to stop averaging during renewal application processing, or during the Program Year, they must submit a revised *Contracting Entity Management Plan* to TDA via TX-UNPS. If the request is to begin using review averaging, the sponsor must also submit their implementation plan.

A sponsor's plan must include the criteria it will use to determine which sites will receive two, three, or four reviews, and review procedures for its organization. TDA will evaluate and approve the plan to ensure that all reviews will be conducted and performed according to Program regulations.

Regardless of the sponsor's review schedule, TDA will review and monitor the sponsor's operation for compliance to determine if reviews are being conducted as required.
NOTE: If a sponsor conducts one unannounced review of a site and finds no serious deficiencies the sponsor may choose not to conduct a third review of the site that year and may make the second review announced or unannounced at its discretion. However, the sponsor must ensure that it conducts an average of three reviews of all its sites in the year, and that it conducts an average of two unannounced reviews of all its sites that year. If a sponsor uses this provision, and a site or sites receive only two reviews in one year, it must ensure that the first review of the site(s) in the next review year occur no more than 9 months after the previous review.

Review Averaging Exceptions

Sponsors that average their reviews must include the review requirements found in Item 4237, *Reviews* with the following exceptions:

1. There can be no more than 9 months between reviews if a site is receiving two reviews.

2. The minimum number of reviews a site may receive is two per year.

3. A site that has a serious finding during the review year must receive at least three reviews.

How to Establish the Averaging Cycle

In order to implement the review averaging option successfully, the sponsor's review cycle must correspond with the CACFP Program Year (PY) (October 1 – September 30). If the sponsor has been conducting reviews on a schedule other than the CACFP PY (for example, sites approved participation date, calendar year, etc.), the new review averaging cycle must have a beginning date of October 1 for all participating sites.

Step 1. Calculate the number of total reviews that must be conducted.

Number of participating sites as of October 1 multiplied by 3 equals the total number of required reviews over the entire PY.

EXAMPLE: 5 sites x 3 = 15 total number of required reviews that must be conducted during the PY (October 1 – September 30).

Step 2. Construct a profile to determine which sites need more or fewer reviews.

The following is an example of how a sponsor may determine which sites would require more frequent review and which would require less frequent review.

Sites that need only two reviews:

- Sites that had no findings on their last 2-3 reviews.
- Sites that have participated for several years that have only minor findings on their last review.

Sites that need three reviews:

- New sites that have previously participated with another sponsor.
- Sites that had findings on their last 2 reviews.
- Sites that are doing well, but need additional technical assistance in a particular area.

Sites that need four reviews:

- New sites that have never participated in the CACFP.
- Sites that had serious findings on their last review, and/or a principal or individual of the site were in the serious deficiency process.
- Sites that are having difficulties.
- Sites that have a combination of the above.

Fluctuations due to adding and terminating sites will affect the sponsor's review averaging plan. To help manage the total number of required reviews the sponsor must perform, a separate averaging plan may be beneficial for new participating sites added during the PY.

New sites added during a PY will then be added to the total reviews for the following PY.

For New Sites Beginning within a Program Year	
Site Beginning Participation Date	Minimum Number of Reviews in PY
October 1-December 30	3
January 1-March 31	3
April 1-June 30	2
July 1-September 30	1

EXAMPLE: If a new site begins participation on December 3, three reviews must be conducted for the PY. If a new site begins participation on May 2, two reviews are required.

Step 3. Determine exactly how many sites will get two, three, or four reviews.

In order to get the total number of reviews required, the sponsor will need to have the same number of sites receiving two reviews as receive four reviews.

EXAMPLE: If 300 reviews are required, a sponsor's schedule might have:

- 10 sites receiving 2 reviews.
- 80 sites receiving 3 reviews.
- 10 sites receiving 4 reviews.

Step 4. Develop a plan to track reviews.

Tracking reviews shows the timing of reviews for each site throughout the year, and identifies which reviews will be announced and unannounced.

A sponsor's tracking plan should keep a running tally, by month and by year-to-date, of:

- The number of reviews conducted.
- The number of unannounced reviews conducted.
- The number of announced reviews conducted.

Step 5. Frontload reviews.

Conducting a majority of the reviews early in the PY ("frontloading") allows for more flexibility if circumstances occur later in the year that forces a revision to the review averaging plan.

Step 6. Revise the schedule.

The sponsor's review averaging plan will need to be reassessed periodically. The more sites the sponsor has, the more times the schedule will need to be assessed.

Anticipate changes such as:

- The number of participating sites changes due to new, terminated, or temporarily inactive sites.
- One or more monitors leave the position.
- Bad weather prohibits the review.
- The monitor has car problems and all reviews for the day cannot be conducted.

Averaging will work differently for each organization, depending on how the site profile is developed, the organization is structured, and other factors. Sponsors that implement review averaging should remember it is a tool to use to focus more technical assistance and oversight on problematic and new sites.

4237.2 Meal Counts and Attendance

Documented daily attendance must be maintained. The daily attendance is not the same as the meal count and the two must be indicated separately. The attendance must be compared to the meal count to determine if any discrepancies exist. For example, the site could have an attendance that is larger than the meal count but should not have a meal count that is greater than the number of infants or children in attendance.

NOTE: An unanticipated fluctuation in participation resulting in the service and claiming of second meals would be the only reasonable explanation for meal counts to exceed attendance. Claiming second meals requires prior approval. Refer to Item 4172, *Second Meals During One Meal Service*, for additional information.

Sponsors' Action: Sponsors must require corrective action and disallow any meals claimed in excess of attendance unless the site has requested approval for second meals and the CE has obtained that approval from TDA. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - Meal counts and attendance will be documented and reported accurately
  - Meals will only be claimed for those children/infants who are documented in attendance

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again
- Submit:
  - The process/procedure developed
  - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

4237.3 Meal Service

Review of the meal service encompasses a wide range including compliance with the meal pattern requirements, meal service times, and documentation.

Meal pattern

To determine a site's compliance with the meal pattern requirements a sponsor must review documentation including, but not limited to:

- Meal production records
- Documentation of food purchases
    - Invoices
    - Receipts
    - Vendor receipts/records
- Donation logs
- Leftover/Recycle logs
- CN labels
- Product formulation statements

The sponsor must determine if the site has complied with the required meal components and portion sizes for each meal type, and if the site purchased or acquired enough of each item to support the meals and snacks it claims.

NOTE: If a site was unable to serve the documented meal with the whole grain-rich grain due to extenuating circumstances, such as being forced to close before serving that meal due to severe weather, the sponsor would not have to call a finding and disallow meals on the basis that the whole grain-rich requirement was not met.

To determine compliance with the components and portion sizes the sponsor must perform a meal analysis.

Ensuring compliance with the meal pattern requirements is not only done during a review, but each month when the sites submit documentation for a claim.

Substitutions due to Disabilities or Medical or Special Dietary Needs

Sponsors must also review the meal production records to determine if there have been substitutions due to disabilities and/or medical or special dietary needs. If there are, sponsors must ensure documentation to support the substitutions is on file and that the substitutions have been made correctly. Refer to Items 4113.2, *Children with Disabilities* and 4113.3, *Children with Medical or Special Dietary Needs* for additional information.

Meal Service Times

Sponsors must ensure sites are serving meals during the meal service times as indicated on the last approved *Site Application*. Meals served outside of the approved meal service times may not be claimed for reimbursement.

Common meal service non-compliances include, but are not limited to:

- Meal production record does not contain all required information to allow the reviewer to determine a credible meal was prepared for each infant/child
- Meal production record contains documentation which indicates the food prepared was not sufficient (measurable amount) to feed the number of infants/children/adult participants claimed for the meal service
- Meal production record contains documentation which indicates not all required food components were prepared for the meal (missing a component such as fruit or vegetable, etc.)
- Meal production records are not available for the month(s)/day(s) being reviewed
- Meal production records do not contain substitutions as appropriate
- Meal being observed does not comply with meal pattern requirements
- Meal being observed is served outside of the approved meal serving times
- Records, such as invoices, receipts, do not support the meals produced and claimed

Sponsors' Action: Sponsors must require corrective action and may disallow any meals that do not meet meal pattern requirements or for which there is not sufficient documentation.

Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - Meals claimed meet meal pattern requirements;
  - Meal production records are documented accurately;
  - Meal production records and all records to support the claim (receipts, invoices, recycle logs, etc.) are maintained and available for reviewers;
  - Only meals that comply with the meal pattern requirements will be claimed
  - Meals will be served during the approved meal service times

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented

- How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again
- Submit:
  - The process/procedure developed
  - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Adverse action is to be taken as follows:

- Insufficient quantity of food for a specific meal served - claim the number of meals for which sufficient quantities were available. **EXAMPLE:** One hundred children were present during a meal service. The main dish was spaghetti and enough meat was prepared for a total of 95 servings. Assume that all 100 attendees were fed, resulting in insufficient quantities for each of the children, however, allow the site to claim 95 meals.
- Receipts/invoices/other documentation shows insufficient quantity of food/milk was available for the meals claimed - first disallow from the meals with the lowest rate of reimbursement.
- Completely missing one or more of the required components – all meals for that meal service must be disallowed.
- CN label/product formulation statement not maintained/available – disallow meals that contained products which required this documentation.

Sponsors should also provide additional training and technical assistance.

4237.4 Civil Rights

Sponsors must ensure sites are in compliance with civil rights requirements as detailed in Section 6000, *Civil Rights*, of this handbook. Sponsors will use observation, conversation and documentation to make this determination.

Sponsors' action: Sites that are in violation of civil rights requirements must be required to take immediate corrective action as well as develop corrective action to ensure future compliance.

Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - **{enter specifics related to noncompliance observed}**

The process/procedure must include:

- Who will be responsible for each/task/function/step in the procedure (by position/title)
- The date the process/procedure was or will be implemented
- How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
- Oversight measures to ensure the noncompliance will not occur again

- Submit:
  - The process/procedure developed
  - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

4237.5 Record Keeping

Sites must comply with all record keeping requirements specified in this handbook. This includes not only retention, but the manner in which records are maintained and completed.

Sponsors will review the sites records to determine if the records are 1) available according to record retention requirements; 2) completed accurately according to policy and record instructions; and 3) current according to policy and record instructions.

Sponsors' Action: Sponsors must require corrective action, disallow any claims/meals or reduce reimbursement, if applicable, for which there is not sufficient documentation. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - All required documentation will be maintained according to record keeping requirements
  - {enter specifics to the documentation in question, such as eligibility documentation}

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again

- Submit:
  - The process/procedure developed
  - Corrected/updated documentation (for example, meal production records, meal count and attendance)
  - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Example of potential adverse action due to record keeping is as follows:

- Meal count and attendance - All meals for days for which meal count and attendance records are missing {enter time period for which records are missing}

Sponsors should also provide additional training and technical assistance.

4237.6 Training

Site staff must receive training prior to beginning key CACFP activities and annually thereafter in all required areas and sub-topics. Sponsors are responsible for ensuring each site's staff are in compliance with the requirement through the review of training documentation, organizational charts, employee records, etc.

Sponsors' Action: Sponsors must require corrective action for any site not in compliance with training requirements. Corrective action should include requiring the site(s) to:

- Provide a description of the circumstances that resulted in the noncompliance
- Develop and implement (step-by-step) processes/procedures to ensure:
  - Staff participate in training prior to beginning key CACFP activities and annually thereafter
  - If applicable, sites ensure sponsors receive updated information on new employees in a timely fashion to be able to ensure the new employees receive training prior to beginning key CACFP activities

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again
- Submit copies of the following documents:
  - The process/procedure developed

Sponsors must also provide training to those sites that have not received the required training.

4337.7 Five-day Reconciliation

During each review sponsors must conduct a reconciliation of meal counts to enrollment and attendance records for five consecutive operating days, including weekends and holidays, during the current and/or prior claiming period. **NOTE:** a comparison of meal counts to licensed capacity is not required as part of the five-day reconciliation process but is a best practice to help identify and resolve problems in the claiming process.

Reconciliation is expected to involve records from the current or previous month, or some combination of days from the current and previous months if the review is conducted early in a month. However, if there are circumstances that warrant the review of a five-day period from an earlier month (for example, the site was closed for vacation or the monitor is trying to establish a pattern), the sponsor may look at the earlier month's records.

The five-day reconciliation is done by comparing enrollment (if available), attendance and meal counts by meal type. Use the information obtained from the meal count, attendance, and enrollment records to complete the five-day reconciliation portion of the *Review* (H1606) form.

To perform the five-day reconciliation, compare the meal counts and attendance records to the five-days chosen during the current and/or prior claiming period to determine the number of children in care during each meal service and attempt to reconcile those numbers to the numbers of breakfasts, lunches, suppers, and/or snacks recorded for that day. Based on that comparison, determine whether the meal counts were accurate. If there is a discrepancy between the number of children in attendance on the day of review and prior meal counting patterns, the sponsor must attempt to reconcile the difference and determine whether the establishment of an over claim is necessary.

The monitor will:

- Choose five consecutive operating days from the meal count record.
- For this five-day period, gather records of:
    - Meal counts, and
    - Attendance.
- Identify the number of children in attendance during the five-day period.
- Compare total meal counts to daily attendance to ensure that meal counts for each approved meal type did not exceed the number of children in attendance on any day.

- Compare total enrollment (if available) to daily attendance to ensure that the number of children in attendance did not exceed the number who were enrolled.
- If meal counts cannot be reconciled with attendance data (and enrollment if available), determine the source of the error and appropriate corrective action.

Sponsors that use automated systems that routinely check all of the critical elements, attendance and meal counts, for the entire claim period may use this as an alternative to the five-day reconciliation. The sponsor would have to demonstrate that the system has the capability to:

- Collect attendance and meal count data;
- Separate attendance or "in and out times" from meal counts; and
- Perform comparisons of attendance and meal counts that would detect potential problems in the claiming process.

The five-day reconciliation may be conducted in the office prior to the review if the monitor has access to all current daily attendance and meal count records for the current or previous month. If this information is available, the monitor could conduct reconciliation in the office prior to arriving at the site, then complete any necessary follow-up work while onsite. The monitor could also conduct a desk review if the comparison of meal counts to attendance and enrollment records, if available is for the purpose of a follow-up review.

Sponsors' Action: Sponsors must require corrective action appropriate to the non-compliance identified during the reconciliation, if applicable and require the site to:

- Develop and implement (step-by-step) processes/procedures to ensure:
  - {enter specifics to the non-compliance identified}

  The process/procedure must include:
  - Who will be responsible for each/task/function/step in the procedure (by position/title)
  - The date the process/procedure was or will be implemented
  - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
  - Oversight measures to ensure the noncompliance will not occur again

- Submit:
    - The process/procedure developed
    - Corrected/updated documentation, if applicable (for example, meal counts, attendance)
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Adverse Action:

- Meals claimed in excess of attendance must be disallowed.

Sponsors should also provide additional training and technical assistance.

4237.8 Nonprofit Food Service

Meal reimbursement, and the goods and services that reimbursement procures, must be used solely for the operation or improvement of the food service, principally for the benefit of the infants/children enrolled for care.

Sponsors must ensure sites are using the reimbursement received to procure goods and services for the use in the food service. This is done through review of documentation and determined by 1) identifying all nonprofit food service revenues; 2) including only allowable net expenses incurred in the operation or improvement of the nonprofit food service when determining food service cost; 3) deducting allowable net expenses from total nonprofit food service revenue; and 4) verifying that any excess is retained and used solely in the nonprofit food service.

Documentation of nonprofit food service status includes, but is not limited to:

- Cash register tapes, invoices, delivery slips, and receipts
- Receiving reports from vendors signed by authorized staff
- Itemized purchase invoices
- Records showing costs of processing, distributing, transporting, storing, and handling food (if these costs are in addition to the cost on the purchase invoice)
- Credits - if they are not shown on invoices
- Canceled checks or other forms of receipts for payments
- Inventory records (including records of major inventory adjustments)
- Payroll records (such as payroll ledgers, IRS Form W-2, IRS Form 941, and cancelled payroll checks, time distribution reports)
- Records of all income to the program

- Records of donations to the program, such as food, services, supplies or labor
- Bank statements
- General ledgers

Sponsors' Action: Sponsors must require corrective action if sites fail to operate a nonprofit food service and/or maintain documentation to allow the sponsor to determine compliance with the requirement to operate a nonprofit food service. Corrective action should include requiring the site(s) to:

- Develop and implement (step-by-step) processes/procedures to ensure, as applicable:
    - All Program funds will be retained and used solely for the operation or improvement of the nonprofit food service
    - Documentation will be maintained according to requirements outlined in the handbook to allow review of the nonprofit food service status

  The process/procedure must include:
    - Who will be responsible for each/task/function/step in the procedure (by position/title)
    - The date the process/procedure was or will be implemented
    - How often the process/procedure will be done, e.g., daily, weekly, monthly, etc.
    - Oversight measures to ensure the noncompliance will not occur again
- If applicable, repayment of funds spent improperly back to the sites nonprofit food service from a non-Program source, and a plan to spend those funds on allowable costs
- Submit:
    - The process/procedure developed
    - Corrected/updated documentation (for example, general ledger)
    - If applicable, documentation of the refund of the improperly spent funds to the nonprofit food service and documentation to confirm use of those funds on allowable costs
    - Any additional supporting documentation required by the sponsor to demonstrate successful corrective action

Sponsors should also provide additional training and technical assistance.

4238 Meal Edit Checks

Sponsors must use monthly edit checks to review meal counts submitted by each site to ensure the accuracy of the sponsor's monthly claim.

The edit checks will ensure that sites are:

- Reimbursed only for approved meal types.
- Not reimbursed for more meals than they could have served during the claiming period.

Edit checks can reveal problems with sites' meal data that need to be resolved before the sponsor submits their claim to TDA. A failed edit check must always result in further investigation or follow-up by the sponsor.

The edit checks required are:

- Approved Meal Types Edit Check: Compare the meal types claimed to the meal types for which the site has been approved. This basic edit check can detect obvious claiming errors. It ensures, for example, that a site approved to serve a snack only does not attempt to receive reimbursement for suppers.

  FOLLOW-UP ACTION: Sponsors must follow their own procedures for handling invalid documentation submitted by a site. However, all meal types claimed that are not approved must be disallowed. For example, the sponsor could contact the site to determine if a revision should be submitted to change the approved meal types.

  Sponsors *may not* retroactively revise the approved meal types in order to reimburse the site for meals already claimed.

- Maximum Number of Meals Edit Check: Identifies the total reported counts that exceed the maximum number of meals that a site could claim in a month. This maximum number equals the site's total attendance, times the maximum number of approved meals that can be claimed per child (2), times the number of operating days in the claiming period.

  EXAMPLE: If a site attendance is 50 and the site serves supper and a snack for 20 operating days, it can claim a maximum of 1,000 for each meal type, and a maximum of 2,000 total meals; 50 attendance X 2 meal types X 20 operating dates = 2,000 maximum total meals that can be claimed for the month.

When the sponsor prepares the claim, each site's total meals/snacks reported must be compared with the site's attendance figure for that month. The sponsor must develop a procedure to ensure that it's using the most current information for the claim month to conduct this edit check.

FOLLOW-UP ACTION: If the meals/snacks count reported for reimbursement fails the maximum number of meals edit check, you must follow-up with a more complete review to determine whether the meal count is accurate. If the meal count is incorrect, follow your own procedures for handling inaccurate meal counts.

Although block claim edit checks are not required, sponsors may use it as a tool to determine potential training needs or claiming concerns with a particular site. Block claim edit checks identify data submitted by a site for which the number of meals for one or more meal type submitted for reimbursement is identical for 15 or more consecutive days within a claiming period.

4239 Health and Safety

When conducting a review of a site, the CE must ensure that noted or suspected instances of conduct or conditions that pose an imminent threat to the health or safety of the children in care or the public are reported to the proper authorities. CEs must exercise judgment in making a determination of imminent threat.

CEs should have guidance in place for monitors to respond consistently and fairly to an imminent threat, and a plan to report, manage, and train staff on determining incidents that pose an imminent threat.

Examples of incidents that rise to the level of imminent threat include:

- Lost or missing child;
- Suspected maltreatment of a child;
- Suspected sexual, physical, or emotional abuse of staff, volunteers, or family members occurring while they are on the premises of the day care home;
- Injuries to children requiring medical or dental care;
- Illness or injuries requiring hospitalization or emergency treatment;
- Mental health emergencies;
- Health and safety emergencies involving parents or guardians and visitors to the site;
- Death of a child or staff member (including a death that occurred outside of child care hours that had resulted from serious illness or injury at the site); or
- The presence of a threatening individual who attempts or succeeds in gaining entrance to the site.

If, during a review, a circumstance such as one of those listed above is suspected or occurs, the monitor must:

- Contact the proper authorities
  - Which authority(ies) to contact (HHSC (formerly DFPS), 911, etc.) will depend on the actual circumstances, CEs should have a procedure/process in place to aide monitors in making this determination
- Stay at the site until the authorities have arrived
  - Staying on-site will depend on the actual circumstances, CEs should have guidelines in the procedures/process to aide monitors in making this determination
- Request assistance from TDA to place the responsible principal(s)/individual(s) in serious deficiency (if it is determined to be an imminent threat to health or safety) following the procedure outlined in Section 10000, *Serious Deficiency*

Caring for Our Children, located at http://cfoc.nrckids.org/ is a resource that provides additional guidance on managing, reporting, and documenting incidents of imminent threat.

4240 Claims for Reimbursement

A CE's claim is its actual participation report submitted for the purpose of receiving reimbursement for costs associated with food service. TDA reimburses claims depending on the availability of funds.

The maximum numbers of meals CEs and sites may claim per child per day are as follows:

At-Risk Afterschool Care Center	**Traditional Child Care Center and At-Risk Afterschool Care Center***	**NSLP/SBP and At-Risk Afterschool Care Center**
One meal and one snack, or two snacks with **prior** approval from TDA	Two meals and one snack, or Two snacks and one meal	NSLP/SBP Breakfast, Lunch, afterschool snack and CACFP supper; or** NSLP/SBP Breakfast and lunch and CACFP snack and supper.**

***CEs and sites must ensure all requirements as outlined in the CACFP Child Care Centers Handbook are met in order for a site to participate in both the traditional and at-risk component of the CACFP.**
****CEs and sites may not serve an afterschool snack through NSLP and then serve the same children an additional snack through CACFP.**

Each meal and snack must be reported individually on the appropriate *Centers Claim for Reimbursement*.

For-profit CEs or sites must not claim reimbursement for meals or snacks served to children in any month in which less than 25 percent of the children in care (enrolled or licensed, whichever is less) were eligible for free or reduced price meals or were Title XX beneficiaries. Children who only receive at-risk snacks/meals must not be included in this percentage.

CEs and sites may claim reimbursement for:

- Children through age 18 years (19 if the child turns 19 during the school year). Children with disabilities are eligible without regard to age.
- Supper and snack served to children on school days, weekends, and school holidays during a school's regular session.
- Breakfast **only** during school holidays or weekends during the school year.
- Lunch **only** during school holidays or weekends during the school year, **except that** lunch meals may be claimed for those children who only attend school half-day, such as pre-school.

Emergency shelters may claim meals served to children on weekdays and weekends.

Sponsors will complete the *Documentation of Meals Claimed* – At-risk (H1540-AT), or alternate, monthly when preparing their claim for reimbursement and maintain the form(s) with their Program files.

In order to process a CE's claims, TDA must have an approved *Certificate of Authority for External Users* (FND-101), for the CE's staff member submitting the claim via TX-UNPS.

Each authorized representative will receive an email with a user ID and temporary password. Once logged into the system, the user will be prompted to change the password. A user manual is available on-line at http://TXUNPS.TexasAgriculture.gov.

The user manual gives instructions on how to:

- Access/log on to TX-UNPS;
- Submit a claim for reimbursement; and
- Obtain help if they are having trouble with their user ID or password, or with accessing TX-UNPS.

NOTE: The purchase of a computer and Internet Service Provider (ISP) support is considered an allowable operating cost. If a CE uses the automation equipment and ISP for any activity, personal, or business, other than the operation of their nonprofit food service, the CE must prorate the cost. The only allowable cost is the portion used in the operation of the CE's nonprofit food service.

4241 Filing Claims and Submittal Deadline

CEs submit claims electronically via the Internet, through the Texas Unified Nutrition Programs System (TX-UNPS). TDA will set up a TX-UNPS account for each authorized representative indicated on the *Certificate of Authority for External Users* (FND-101).

Claims must be received no later than the 60th day after the last day of the claim month. Refer to Item 4242, *Late Claims*, for information on claims received after the 60th day.

Once the CE's claim has been successfully submitted, a confirmation number will appear, and the claim status will be "accepted." CEs can print the screen, which contains a confirmation number, to reference when calling to confirm or ask questions about the claim. If the 60th day is on a weekend or Federal holiday, the claim must be postmarked or received no later than midnight on the following workday.

CEs that call to confirm the receipt of their claim or make inquiries about their claim must have the confirmation number available. TDA office hours are 8:00 a.m. to 5:00 p.m. Central Standard Time (CST).

If TX-UNPS is unavailable on the last day of the filing deadline ("the system is down"), CEs may submit a paper claim via fax, mail, or by personal delivery to the TDA office in the Stephen F. Austin Building in Austin. However, the claim must be postmarked or received by TDA before close of business on the 60th day or it will be received as a late claim. CEs must attach a cover letter explaining why they could not submit their claim electronically via TX-UNPS.

If a CE waits until the 60th day to submit a claim electronically and then is unable to access TX-UNPS due to any problem **other than** TX-UNPS being down, the CE must:

- Find an alternate site to access TX-UNPS and submit their claim before the deadline, or
- Submit their claim via the paper process as a late claim. See Item 4242, *Late Claims* for information on the processing of late claims.

NOTES:

- CEs should not mail their claim if they fax it or submit it electronically.
- It may take up to 45 days to process valid claims, no matter the method of submittal.

TDA recommends that CEs always have a back-up person designated to submit claims. Doing so could lessen the chance of submitting a late claim that may be denied for payment. If a CE receives advance payments, it should submit the claim as early as possible after the end of the claim month, as a delay in submitting the claim could affect receipt of advance payments.

When submitting a claim for reimbursement the CE certifies that the claim is accurate and documentation is on file to support that claim. A CE that submits an inaccurate claim may be required to repay funds and will be required to submit corrective action.

Inaccurate claims include:

- Over claiming –
    - claiming more meals than were actually served
    - claiming meals that did not meet meal pattern requirements
    - claiming meals for ineligible children
- Under claiming –
    - claiming fewer meals than were served

4242 Late Claims

Claims postmarked or received by TDA later than 60 days after the last day of the claim month (i.e. late claim) will be processed in the following manner:

<u>Corrective Action Plan (CAP)</u>

The submission of a late claim is a Program noncompliance; therefore, CEs must submit an approvable CAP that includes the:

- Reason for submitting a late claim;
- Actions to be taken to avoid repetition of the situation linked to the late claim submission;
- Actions to be taken to avoid any future late claim submission from the same or other causes; and
- Signature of an Authorized Representative designated to act on the organization's behalf per the *Certificate of Authority for External Users* (FND-101).

Once a CE has submitted an approvable CAP, TDA will determine if it is eligible for the one-time exception payment provision.

NOTE: TDA will accept as proof of submission of a claim a postmark affixed by the U.S. Postal Service or equivalent documentation from a private postal service showing when the item was mailed. TDA will not accept as proof of submission of a claim a postmark affixed by a postage meter.

4242.1 One-Time Exception

A one-time exception may only be used once within a 36-month time period for each USDA Child Nutrition Program (CNP) in which the CE participates. The CACFP is one CNP, regardless of whether a CE participates in only at-risk afterschool care center component or if they also participate in Adult Day Care and/or Day Care Homes.

A one-time exception granted to a CE does not eliminate the CE from consideration for a one-time exception for another CNP claim, for example, the Summer Food Service Program.

If the CE has …	Then the CE may …
Not used the one-time exception provision within the 36-month time period,	Choose or request to use the one-time exception payment or receive no payment for the late claim. If the CE submits claims for more than one month at the same time, then the CE may choose the claim month for which to apply the one-time exception.
Already used the one-time exception provision within the 36-month time period,	Request a good cause exception.

4242.2 Good Cause

Requesting a Good Cause Exception

<table>
<tr><th>If a CE …</th><th>Then TDA …</th></tr>
<tr><td>Requests a good cause exception,</td><td>Will consider each request on a case-by-case basis. The CE must demonstrate that the noncompliance occurred due to circumstances beyond its control (i.e., Good Cause).
<table><tr><th>If TDA…</th><th>Then TDA…</th></tr><tr><td>Approves the request,</td><td>Will forward the request to USDA for approval.</td></tr><tr><td>Does not approve the request,</td><td>Will deny payment of the late claim.</td></tr></table></td></tr>
<tr><td>Does not request a good cause exception,</td><td>Will deny payment of the late claim.</td></tr>
</table>

Examples of good cause beyond a CE's control may include, but are not limited, to:

- A catastrophic incident such as a tornado, flood, or fire; or
- A life-threatening injury or illness to the person responsible for submitting the claim.

NOTE: Catastrophic incidences, life-threatening injuries or illnesses **do not** automatically entitle a CE to be granted a good cause exception. The responsibility is upon the CE to demonstrate how the catastrophic incident, life-threatening injury or illness caused a situation that made submitting the claim within 60 days unreasonable/impossible.

Examples of reasons that would **not** be considered good cause beyond a CE's control include, but are not limited to:

- Absence of personnel on the 60th day, for reasons other than a life-threatening injury or illness;
- TX-UNPS is down or inaccessible for electronic filing;
- A malfunction of power or equipment at the CE's facility; or
- Failure to get the claim in the mail in time to get it postmarked on the 60th day.

If USDA determines that a CE's request for a good cause exception does not demonstrate that the noncompliance occurred due to good cause, payment of the late claim will be denied. CEs cannot appeal USDA's denial of a claim. However, CEs may appeal TDA's denial to submit the CE's request for a good cause exception to USDA for consideration of payment.

4243 Adjusted Claims

A CE may have a reason to submit an adjusted claim (that is, make a change to an already submitted claim) to amend any of the information submitted. An adjusted claim that results in TDA owing the CE money (an upward adjustment), will be included in the CEs next regular reimbursement payment. If the adjustment results in the CE owing TDA money (a downward adjustment), the amount will be deducted from the CEs next claim or claims until the funds have been repaid.

A CE that needs to adjust an already submitted claim may do so by following the instructions in the TX-UNPS user manual located at http://TXUNPS.TexasAgriculture.gov.

Occasionally, an adjusted claim as the result of disallowances taken during an administrative review or as the result of claim validation will be required. If this occurs, TDA will notify the CE in writing and provide appeal rights.

4243.1 Upward Adjusted Claims

The corrective action procedures stated in Item 4242, *Late Claims*, also apply to any upward adjusted claim postmarked or received by TDA more than 60 days after the last day of the adjusted claim month.

4244 Limitations on Administrative Reimbursement for Sponsoring Organizations

Sponsors may only withhold an amount <u>not to exceed 15% of the CACFP reimbursement paid annually</u> as a source of income for paying <u>actual</u> allowable administrative costs incurred in supporting the operation of the nonprofit food service in its sites. The sponsor must maintain documentation to support the percentage of CACFP reimbursement withheld.

Sponsors that are operating with less than 15% (for example, sponsors that have operated at 12% for 2 or more consecutive months) are expected to retain no more than the lesser percentage each month unless or until they can document that the amount needed has increased or decreased. **NOTE:** When determining the monthly percentage, those costs which are incurred each month but are paid on a quarterly basis must be included in the calculation of the monthly amount.

Each claim month, sponsored sites submit their food service participation information to the sponsor who then consolidates the information and prepares the *Claim for Reimbursement*, for submittal. Upon receiving the reimbursement for a claim month, sponsors must determine each site's reimbursement and deduct from each site's reimbursement the amount the sponsor withholds for administrative costs in an amount <u>not to exceed</u> 15%.

Sponsors must not include the cash-in-lieu amount when calculating its administrative cost percentage, and sponsors must also have documentation of actual expenses to support the percentage of reimbursement withheld each month.

Sponsors must also use the *Sponsoring Organization Disbursement Record* (H4503), or alternate, for any financial transaction in which the sponsor receives CACFP funds from TDA, including reimbursements related to advance payments, initial claim payments and adjusted claim payments.

The *Permanent Agreement Between Sponsoring Organization and Child Care Site,* prohibits the sponsor from charging the facility for CACFP services (see page 1, Rights and Responsibilities of the Sponsor, Number 5).

A sponsor **requiring** a site to use software or services the sponsor provides must include the cost of the software or services in the allowable percentage of administrative reimbursement the sponsor can withhold each month, and cannot charge a separate amount in addition to the allowable percentage, regardless of whether the software or services are paid for out of CACFP funds or non-CACFP funds.

In addition, a sponsor **requiring** a site to use software or services provided by another source must reduce the allowable percentage of administrative reimbursement it can withhold each month by the amount paid by the site to that third party, regardless of whether the software or services are paid for out of the CACFP funds or non-CACFP funds by the site.

Sponsors charging a site for software or services, or requiring a site to purchase software or services from another source, in addition to withholding administrative reimbursement, exceeding 15%, will be required to reimburse the site for excess charges and may be placed in the serious deficiency process.

Sponsors must have an internal accounting system in place to show how much and where the funds including overages were applied and must ensure the funds are used to enhance and support the nonprofit food service.

4244.1 Sponsors of Affiliated Sites

A sponsor of affiliated sites must only use an amount not to exceed 15% of each month's total CACFP reimbursement to pay for actual allowable administrative costs. The sponsor must use the remaining amount of each month's CACFP reimbursement to enhance the quality of the food service operation.

The sponsor must indicate on the *Sponsoring Organization Disbursement Record* (H4503) or alternate the total amount of the CACFP reimbursement it received for the corresponding claim month and the amount the sponsor withheld to apply to its actual allowable administrative costs. A sponsor of affiliated sites only completes Section 2 of the *Sponsoring Organization Disbursement Record* (H4503).

4244.2 Sponsors of Unaffiliated Sites

A sponsor of unaffiliated sites must only withhold an amount not to exceed 15% of each month's CACFP reimbursement to pay for actual allowable administrative costs. Sponsors of unaffiliated sites must disburse reimbursements to its sites **within 5 days of receipt** of payment from TDA, this includes advances if applicable. A sponsor of unaffiliated sites must complete all sections of the *Sponsoring Organization Disbursement Record* (H4503) or alternate.

Each month Sponsors of unaffiliated sites must provide to each site written documentation that details the reimbursement the site is receiving that month, and includes the:

- Name of the site;
- Total meals/snacks claimed, by type, by the site for the month;
- Total meals/snacks disallowed, by type, including the reason(s) for the disallowances, for the month, if applicable;
- Total meals/snacks submitted for reimbursement (minus disallowances, if applicable);
- Total reimbursement for meals/snacks claimed and submitted for reimbursement for the month (minus cash-in-lieu);
- Total cash-in-lieu for the month, if applicable;
- Total withheld for allowable administrative expenses for the month; and
- Total reimbursement paid to the site for the claim month.

The *Claim for Reimbursement Worksheet-Meals* (H4502) or alternate and *Sponsoring Organization Disbursement Record* (H4503) or alternate as well as the claim summary in TX-UNPS can be used in preparing this documentation for each site.

4254.3 Sponsors of Both Affiliated and Unaffiliated Sites

A sponsor of both affiliated and unaffiliated sites must only withhold an amount <u>not to exceed 15% of each month's total CACFP reimbursement</u> to pay for actual allowable administrative costs. A sponsor of both affiliated and unaffiliated sites must:

a. Indicate in Section 2 of the *Sponsoring Organization Disbursement Record* (H4503) or alternate the total amount of the CACFP reimbursement it received for the corresponding claim month and the amount the sponsor withheld to apply to its actual allowable administrative costs for unaffiliated sites only.
b. Complete Section 3 of the *Sponsoring Organization Disbursement Record* (H4503) or alternate for the unaffiliated sites only.
c. Disburse reimbursements to its unaffiliated sites **within 5 days of receipt** of payment from TDA, this includes advances if applicable.

4244.4 Waiver to Limitation on Administrative Reimbursement for Sponsoring Organizations

Sponsors may request approval to withhold a percentage of reimbursement that exceeds 15% for allowable administrative costs, if the sponsor:

- Does not have an outstanding debt to the Texas Department of Agriculture (TDA);
- Is not currently in the serious deficiency process; and
- Is in good standing with the Comptroller of Public Accounts

To request a waiver, the sponsor must:

- Complete and submit the *Contracting Entity Request for Waiver of 15% Limit for Allowable Administrative Costs* form, as well as have the required documentation listed on the form to support the request available for review prior to approval of the waiver.
- Revise the Contracting Entity Budget Detail screen in TX-UNPS.
- Mark the Administrative Waiver Documentation Checklist item and indicate the date the waiver form was submitted, in TX-UNPS. Select the red "Submit for Approval" button to transmit your request.

If approved, the:

- Approval would be effective no earlier than two full months* from the approval date;
- Sponsor must obtain a signed *Acknowledgement By Sponsored Child Care Facility* and *Amendment 1 to Permanent Agreement Between Sponsoring Organization and Child Care Site* from each currently participating unaffiliated site and each new unaffiliated site they sign an agreement with.

*For example, the sponsor's request is approved November 20, 2018 the earliest it could begin withholding the higher amount would be February 2019. This gives the sponsor and unaffiliated sites time to execute the amendment, or the unaffiliated sites time to choose one of the other options given them on the amendment form.

An unaffiliated site that is currently participating with a sponsor at the time the sponsor receives an approved waiver has the following options:

- Execute the amendment and agree to allow the sponsor to retain more than 15%;
- Terminate its agreement with the sponsor and apply to participate directly with TDA;
- Request a "good cause" transfer from TDA to transfer to another sponsor during the current Program Year;
- Terminate its agreement with the sponsor and apply with another sponsor during the open enrollment period of June 1 through July 31.

A sponsor that has received an approved waiver must notify its current and potential unaffiliated sites of the approved waiver, and explain what it means to the site's reimbursement amount, <u>prior</u> to signing an agreement and amendment with that site. Failure to do so could result in adverse action, up to placement in the serious deficiency process and termination of the CE's Permanent Agreement.

4300 Operation of Child Nutrition Program During a Disaster

Disasters, such as hurricanes, tornadoes, and floods, and an outbreak of a pandemic disease can cause situations that are not typical of the day to day operation of a CE or site. Below is guidance for handling CACFP operations in the event of a disaster or pandemic.

Eligibility for Free Meals

Children residing in or evacuated from disaster areas may be determined homeless and are categorically eligible for free meals.

CEs and sites can get verification of the child's homeless status from the:

- School district homeless coordinator,
- Homeless liaison (in cases where a liaison assisted the family in moving in with another household),
- Application from the Health and Human Services Commission with case number showing receipt of Disaster Supplemental Nutrition Assistance Program (D-SNAP) ,or
- Adult member of the child's household
  - The adult member would complete the *CACFP Meal Benefit Income Eligibility Form* and designate the child or children "homeless."

Host families can include the displaced family members and any income provided to them when applying for free or reduced-price meals.

In cases where an evacuated family or child is not categorically eligible and an application cannot be completed or obtained, the CE may request shared income information from the school in which the child is enrolled (if applicable) and for whom a school official completed an application on the child's behalf.

Children determined eligible for free meals as a result of a disaster remain eligible for 12 months.

Designated Emergency Shelters

TDA may designate as "temporary emergency shelters" organizations that provide:

- Temporary shelter and meals to displaced families, and
- Meals to displaced families though not providing actual shelter (for example, organizations that are serving meals to those sheltered in locations not providing meals).

These designated emergency shelters will not be required to complete the entire application process to participate in the CACFP and may serve and claim up to three meals (breakfast, lunch, and supper) each day for children through age 18.

Meal Components and Meal Service

Modifications to time of meal service and use of offer versus serve may be made with TDA approval. Additionally, changes to meal components, such as using canned or dry milk in the event that fluid milk is unavailable may be approved by TDA.

During unanticipated school closures at-risk afterschool care centers that are able can continue to serve meals and snacks, but may as necessary modify the meal type offered. For example, at-risk centers that normally offer a snack and supper may instead choose to offer either a lunch and snack or breakfast and snack. Changes to the meal type(s) and times offered must be submitted via TX-UNPS.

Any other modifications to the required meal pattern must be submitted to TDA and will be approved or denied in consultation with FNS.

Record Keeping

CEs must maintain required records. When required records have been destroyed due to a disaster CEs should consult with their Community Operations office for guidance.

Other Exceptional Emergency Situations or Man-made Disasters

Other exceptional emergency situations or man-made disasters, such as human pandemic or chemical plant explosions, may impact the ability of schools, institutions, and sponsors to continue normal Program operations (for example, congregate feeding, review requirements, etc.).

In the event of such exceptional emergency situation or man-made disaster, flexibilities may be approved by USDA on a case-by-case basis to accommodate the needs of severely impacted areas. CEs in these situations should contact their Community Operations office for assistance.

Resources

The following resources are available to assist in planning for and responding to disasters:

FNS Disaster Resources website at: https://www.fns.usda.gov/disaster/disaster-assistance

National Center for Homeless Education: McKinney-Vento Toolkit at:
https://nche.ed.gov/pr/liaison_toolkit.php

FEMA: Guide for Developing High-Quality School Emergency Operations Plans at:
https://www.fema.gov/media-library/assets/documents/33599

4400 Program Documentation

4410 Record Retention

CEs must keep the Permanent Agreement and any amendments for at least three years from the end of the CE's final Program Year. CEs and sites must retain all documents relating to their participation in the Program, such as claims and supporting documents that are specific to a particular Program Year, for at least three years from the end of that Program Year. For example, all documents specific to the CACFP 2016 Program Year must be retained until September 30, 2019.

NOTE: Records that have not been revised and are still in effect at the end of a program year will be considered current and cannot be archived or destroyed until three years from the end of the program year in which they are finally superseded. For example, budgets, management plans, organizational charts, etc.

EXCEPTION: If audit findings, claims, or litigation have not been resolved, all forms and records must be retained beyond the required time period until all issues are resolved.

4420 Availability of Records

CEs and sites must allow TDA, USDA, Government Accountability Office, and representatives of other appropriate agencies to inspect facilities and records and to audit, examine, and copy records during normal business hours, which at a minimum are 8:00 a.m. to 5:00 p.m., Monday through Friday.

CEs and sites must maintain their CACFP records separately from records of other programs; additionally sponsors must maintain separate records for each of their sites.

4430 Types of Records

CEs and sites must keep complete and accurate records of the Program including, but not limited to, the following:

- Copies of applications and supporting documents submitted to TDA, including but not limited to
  - Budget Detail, all versions submitted
  - Direct Deposit Authorization
  - Application for Texas Identification Number
  - Contracting Entity Management Plan
  - Pre-Award Civil Rights Compliance Review form
  - Description of qualifying afterschool program
  - Documentation of Licensure, or exemption if applicable
  - Documentation of compliance with health and safety requirements
  - Proof of tax-exempt status (501(c)(3))
  - Organizational chart
  - Articles of Incorporation, Certificate of Formation, Assumed Name Certificate
  - Governing Body Awareness
  - Government Issued Identification and proof of residential mailing address
    - Drivers' license or personal identification card issued by the Texas Department of Public Safety, or a similar document issued by an agency of another state, regardless of whether the card or license has expired,
    - Military identification,
    - Valid US Passport
    - Current, valid voter registration card,
    - Official mail addressed to the person's current address, by name, from a utility provider or government agency or bank,
    - A lease (that has not expired) executed by the individual,
    - Any other proof approved by TDA.
  - School data
  - Site applications
- Copies of financial documents, including but not limited to
  - Cash register tapes, invoices, delivery slips, and receipts
  - Receiving reports from vendors signed by authorized staff
  - Itemized purchase invoices

    - Records showing costs of processing, distributing, transporting, storing, and handling food (if these costs are in addition to the cost on the purchase invoice)
    - Credits - if they are not shown on invoices
    - Canceled checks or other forms of receipts for payments
    - Inventory records (including records of major inventory adjustments)
    - Records of insurance claims and collections
    - Mileage logs to support transportation costs
    - Payroll records (such as payroll ledgers, IRS Form W-2, IRS Form 941, and cancelled payroll checks, time distribution reports)
    - Records of all income to the Program
    - Records of donations to the Program, such as food, services, supplies or labor
    - Bank statements
    - General ledgers
    - Copies of audits
    - Records of dates and amounts of food service payment to each of a sponsor's sites
- Procurement records, including the basis for the cost or price and the reason for selecting a particular
    - Method
    - Contract type
    - Contractor
- Daily meal production records that include the food items and amounts of food prepared.
- Daily records of
    - The names and number of children in attendance (H1535/H1535-AT)
    - The number of meals, by type, served to children (including names)
    - The number of meals served as second meals, if any
        - Documentation sufficient to justify the service of second meals (if claimed for reimbursement)
    - The number of meals, by type, served to adults (Program Meals) working in the food service (H1535/H1535-AT)
    - The number of non-Program meals, by type, served to adults (H1535/H1535-AT)
- Copies of medical statements with prescribed substitutions for children with disabilities or who require special diets
- Copies of CACFP claims and receipts for payment from TDA
- Rosters for children residing in emergency shelters with their parents or guardians (including the arrival and withdrawal dates, the child's name and age)

- Documentation of training
    - Documentation of training provided to staff prior to beginning key CACFP activities and annually thereafter
    - Documentation of attendance at training provided by TDA or the ESC
    - Documentation of training provided to sites (sponsors only)
- Records of site reviews (locations, dates, problems noted, corrective action prescribed, and technical assistance provided), including completed Reviews (H1606-AT)
- Records of pre-approval visits (H1606-AT-P)
- Agreements
    - Copy of organization's Permanent Agreement with TDA
    - Copies of *Permanent Agreement Between Sponsoring Organization and Child Care Site* for all sponsored unaffiliated sites
    - Lease/rental agreements
    - Subcontractor agreement
    - *Invitation for Bid and Contract for Purchased Meals* (IFB)

*Not all records pertain to sponsored sites, for example the Texas Department of Agriculture Food and Nutrition Division Permanent Agreement.

CEs and sites that scan original documents for storage must maintain the original (source) documentation on file if that documentation contains signatures. For example enrollment records, *Daily Meal Count and Attendance*, *CACFP Meal Benefit Income Eligibility Forms*, etc.

Additionally, all other copied or scanned documentation must copy or scan completely and must be legible when viewed or printed. Failure to maintain acceptable documentation could result in disallowances or unallowable costs.

4440 Required Forms

CEs and sites must use forms provided by TDA to administer and operate the CACFP with the *exception* of the forms listed below.

The forms listed below are provided for CE and site use in documenting compliance with the operation of the Program.

CEs and sites may develop their own forms or documentation, in lieu of using the forms listed below, to capture the information contained in these forms. CEs and sites must ensure that they maintain this information as required and that it is available for review.

Failure to capture all required information on alternate documentation, including certification statements and signatures (as applicable), could result in Program non-compliances, including disallowances and/or placement in the serious deficiency process.

- *Governing Body Awareness*
- *Daily Meal Production Record – Child Care* (H1530)
- *Daily Meal Count and Attendance Record (At-Risk)* (H1535-AT)
- *Documentation of Meals Claimed* – At-risk (H1540-AT)
- *Record of Leftover/Recycled Food (*H1568*)*
- *Claim for Reimbursement Worksheet – Meals* (H4502)
- *Sponsoring Organization Disbursement Record* (H4503)
- *Review* (H1606-AT)
- *Pre-Approval Visit* (H1606-AT-P)

4450 Confidentiality

CEs and sites must protect the confidentiality of any information that has been provided by a household. The CE and site must not release any information that contains a Program participant's name or other individual information. Summary information, such as the number of participants, can be released.

Section 5000 Visits, Reviews, and Audits

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
May 2025	Consolidated Section 5000 from all four current CACFP handbooks and rewrote/reorganized as required for clarity. This section is now identical in all four handbooks.	
	Clarified that CEs will be notified of the specific date(s) of announced reviews at least 30 days prior to the start of an administrative review or follow-up review.	5200
	Updated frequency, scope, and CE criteria related to scheduling of administrative reviews. This updated guidance reflects regulatory changes from the Child Nutrition Program Integrity Final Rule published in 2023.	5210
	Added TDA's responsibilities for annually reviewing sponsors' financial records in accordance with the Child Nutrition Program Integrity Rule.	5220
	Added information about Technical Assistance (TA) visits conducted by the Education Service Centers.	5230
	Added clarification around Document Request Package (DRP) due dates and delivery methods.	5240
	Added clarification that at minimum, 15% of all site/provider reviews conducted by TDA must be unannounced.	5260
	Clarified that day care home providers are not required to take point-of-service meal counts	
	Added more criteria for what might necessitate a periodic visit at the CE level	5310
	Increased federal threshold required for a single audit from $750,000 to $1,000,000.	5400, 5450

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5100 Visit Prior to Approval

Prior to approving an organization's application for participation, TDA staff will conduct a visit to:

- Evaluate the organization's management ability and the resources (e.g., staff) that it has reserved for its CACFP operation;
- Verify the information submitted on an application; and
- Provide technical assistance as appropriate.
- Determine if the organization is eligible to receive reimbursement for the month prior to agreement execution.

Inconsistencies between TDA's observations during the visit and the information that the organization submitted on its application may result in denial of the application and, in some cases, placement in the serious deficiency process.

5200 Administrative Reviews

TDA conducts administrative reviews of a CE's Program operations to:

- Ensure compliance with all applicable Program requirements; and
- Provide guidance and support to the CE regarding questions or concerns related to Program operations or the specific Programs it administers.

The administrative review includes observation of a meal service and examination of Program records. The CE must allow USDA, TDA, and any of their representatives to inspect its site and/or sponsored sites/providers and examine and copy records during normal business hours.

On or around November 1 of each year, TDA will send an automated email via TX-UNPS to each CE scheduled to receive an announced review during that Program Year (PY). CEs will be notified of the specific date(s) of announced reviews at least 30 days prior to the start of an administrative review or follow-up review. TDA also conducts unannounced reviews for which CEs will not be given prior notification.

5210 Frequency and Scope

Sponsoring organizations and independent centers in all CACFP sub-programs will, at minimum, be reviewed as follows:

- **Independent center** – once every three years
- **Sponsors with 1-100 sites/providers** – once every three years.
  - TDA will review 10 percent of a sponsoring organization's facilities.

- **Sponsors with more than 100 sites/providers** – once every two years.
    - These reviews will include reviews of 5 percent of the sponsoring organization's first 1,000 facilities and 2.5 percent of the sponsoring organization's facilities in excess of 1,000.
- **Sponsoring organizations and independent centers deemed seriously deficient at any time or determined to be at risk for Program non-compliance** – once every two years.
    - These reviews will include reviews of 5 percent of the sponsoring organization's first 1,000 facilities and 2.5 percent of the sponsoring organization's facilities in excess of 1,000.
- **Sponsoring organizations or independent centers engaging in activities other than CACFP (multi-purpose organizations)** – once every two years.
    - These reviews will include reviews of 5 percent of the sponsoring organization's first 1,000 facilities and 2.5 percent of the sponsoring organization's facilities in excess of 1,000.
    - Non-CACFP activities that may subject an organization to a 2-year cycle include but are not limited to:
        - Contract services, such as training and administrative services;
        - Community-based organizations;
        - Large nonprofit and for-profit institutions, such as multi-state sponsoring organizations;
        - Food banks; and/or
        - For-profit charter schools.
    - The following activities **would not** require an organization to receive more frequent monitoring:
        - Operating other child nutrition programs, such as the National School Lunch Program and the Summer Food Service Program; and/or
        - Activities and programs conducted for the purpose of providing child care (e.g., Pre-K grants, subsidized child care, and Head Start).

Additionally, the following requirements apply for new sponsoring organizations:

- **New sponsoring organizations with 5 or more sites/providers** – within the first 90 days of Program operation.
- **New sponsoring organizations with less than 5 sites/providers** – within the first 12 months of Program operation.

Reviews are conducted during the CE's normal business hours and may take anywhere from two days to two weeks or more, depending on the size of the operation. TDA will review all records from a test month and may expand the review to include additional months based on documentation reviewed prior to the onsite review and/or if the CE is considered high risk.

5220 Additional Financial Reviews for Sponsoring Organizations

In addition to the Administrative Review requirements described in the previous section, TDA will conduct financial reviews of sponsoring organizations as follows:

- TDA will conduct an annual review of at least one month of bank account activity for all sponsoring organizations. This review will include a comparison of financial transactions against supporting documentation to ensure compliance with Program requirements. For details on allowable Program expenses, refer to Section 7000: Financial Management.
    - TDA may expand the review to examine additional months of bank account activity if discrepancies are identified ~~found~~.
    - If TDA identifies and is unable to verify any expenditures that have the appearance of violating Program requirements, or if the discrepancy is significant, TDA must refer the sponsoring organization's bank account activity to the appropriate State authorities.
- TDA will annually review actual expenditures reported of Program funds and the amount of meal reimbursement funds retained from sites, if any, for administrative costs for all **sponsoring organizations of unaffiliated sites**.
    - Sponsoring organizations may only retain the amount of **actual** administrative expenditures from the monthly claim disbursed to their sites, not to exceed 15%.
    - TDA will reconcile reported expenditures with Program payments to ensure that funds are fully accounted for and use the reported actual expenditures as the basis for selecting a sample of expenditures for validation.
    - If TDA identifies and is unable to verify any expenditures that have the appearance of violating Program requirements, TDA must refer the sponsoring organization's bank account activity to the appropriate State authorities.

TDA will also monitor and review CE and site financial documentation during scheduled administrative reviews to ensure that they are maintaining their nonprofit status and that all Program reimbursement funds are used solely for the conduct of the food service operation or to improve food service operations, principally for the benefit of children or adult participants.

5230 Technical Assistance (TA) Visits

Each new CE will receive a visit from an ESC within its first 90 days of Program operation.[1] The visit allows the CE an opportunity to ask questions related to Program operation and requirements. The ESC representative will be able to review the documentation the CE has on file and identify potential corrections that need to be made to the documentation and/or procedures. The 90-day TA visit can be a scheduled or unscheduled visit, and CEs will receive a copy of visit documentation.

[1] If the CE is a sponsoring organization with 5 or more sites, thus necessitating a full TDA review within the first 90 days, the ESC TA review will occur between 30 and 60 days to allow the CE an opportunity to address noted concerns identified during the visit prior to the TDA review.

Additionally, ESCs will conduct onsite TA visits with each CE at least twice a year. Conditions that may prompt an ESC TA visit include:

- New food service director
- CEs that have been suspended
- CEs scheduled for an administrative and/or procurement review
- CEs with identified findings prior to the corrective action due date
- New, returning, and potential CEs that need application assistance
- Substantial new policy guidance issued requiring change to Program operations (for example, Nationwide waivers)

5240 Engagement and Pre-Onsite Review of Records

To ensure continued compliance with applicable rules and regulations, timely and accurate completion of the review, and to minimize disruption to the CE's daily program operations, TDA will inspect the CE's Program documentation in advance of its review.

Prior to an announced administrative review, TDA's F&N Community Operations staff emails an engagement letter to the CE with the following information:

- Date and time of the on-site visit portion of the administrative review.
- A Document Request Packet (DRP) that contains:
    - A list of all required documentation to be submitted to TDA staff.
        - The documentation requested will be specific to each CE, by sponsor type.
    - The due date for all requested documentation will be listed in the engagement letter.[2]
    - Instructions for uploading the documents into TX-UNPS.
    - Additional instructions for on-site document review.

CEs must provide all requested documentation by the due date noted in the engagement letter or risk being assessed a finding requiring corrective action. As a best practice, CEs should periodically scan documentation and are encouraged to combine multiple documents into single PDFs (up to 150 MB) to allow for more efficient uploading. If technological limitations will prevent document upload, the CE must contact TDA as soon as possible after receiving the letter to arrange an alternate method to have documents delivered by the due date. CEs seeking technical assistance are encouraged to contact their respective ESC representatives. The ESC contact information is included in the engagement letter.

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[2] TDA sends all engagement letters to the email addresses listed in the CE's Program application. It is the responsibility of each CE to ensure that the email addresses for **all** responsible principals and individuals are accurate and **up to date**. An engagement letter is considered received once the email has been sent. If the email is undeliverable, TDA will issue the notice via certified mail to the recipient's last known address. In such cases, the notice is considered received **five days** after the date of mailing.

Following the desk review of the CE's submitted documentation, a TDA reviewer may contact or email the CE questions regarding missing or incomplete records prior to the on-site review. CEs will be required to sign or attest to the provided documents.

If a CE fails to submit the requested records by the designated due date, or if they do not provide any additional documentation requested during the on-site review before the conclusion of the exit conference, this may lead to adverse action.

<u>NOTES:</u>

- CEs must maintain original versions of the submitted documents for review during the onsite visit.
- Costs incurred from making copies for the administrative review are considered allowable administrative costs if they are in the CE's approved budget.
- TDA will ensure CEs are retaining all documents for the minimum required three years and may request to review records for any time during that retention period.

5250 Entrance Conference

Upon arrival at the CE's location, the TDA reviewer(s) will conduct an entrance conference with an authorized representative.[3] During the entrance conference, the TDA reviewer(s) will:

- Introduce all assigned reviewers.
- Explain the scope, intent, and process of the review.
- Discuss the records that will be evaluated, including the status of those already requested and/or any documentation that is still missing; the CE must provide any missing documentation no later than the exit conference.
- Answer any questions the CE might have.
- Designate a single TDA point of contact for the duration of the review.
- Ensure the CE knows how long the review should take and the estimated return time for the following day if additional time on-site is needed.
- Set a tentative date and time for the exit conference.
- Review records and complete a records checklist with the CE and request missing information.

5260 Site/Provider Reviews

Reviews of sponsored sites/providers are conducted to determine a sponsoring organization's ability to administer the Program. This is accomplished by reviewing the site/provider's compliance with Program requirements, which includes a meal service observation, review of records and record-keeping requirements, review of training documentation, review of the sponsor's monitoring documentation for the selected site/provider, and interviews with

[3] Person(s) designated to act on the organization's behalf per the *Certificate of Authority for External Users* (FND-135)

site/provider staff. **At minimum**, TDA must conduct 15% of these site/provider reviews unannounced.

Observation of the meal service will inform TDA if the CE or sponsored site/provider is:

- Complying with its approved meal service times (beginning and ending).
- Serving a reimbursable meal that meets the CACFP meal pattern requirements.
- Preparing meal production and attendance records in accordance with record-keeping requirements.
- Complying with civil rights requirements.

Additionally, at child care centers, adult day care centers, and At-Risk sites, TDA will ensure that these sites are taking a point-of-service meal count. **Day care home providers are not required to take a point-of-service meal count.**

5270 Exit Conference

All reviews require an exit conference with the CE's authorized representative prior to the conclusion of the review. During the review, the TDA reviewer(s) will provide the CE with a *preliminary*[4] review report and:

- Request clarification for any unresolved discrepancies in the documentation.
- Explain any identified areas of non-compliance.
- Document any outstanding documentation or data that has not yet been received.
- Provide technical assistance related to areas of non-compliance, as well as any other topics requested by the CE.
- Address any additional questions or concerns raised by the CE.

The TDA reviewer will not disclose the amount of any potential disallowances or whether the CE has been determined to be seriously deficient during the exit conference. Final review results will be provided in a *Notification of Review Findings* once all documentation has been reviewed and the assessment is complete. The CE is encouraged to use the Preliminary Review Report to begin taking immediate corrective action in any areas identified as non-compliant.

5280 Notification of Review Findings

After all information has been compiled, the CE will receive a notification of review findings. This notification will explain areas of non-compliance and request appropriate corrective action, if necessary. If any disallowances are being taken or unallowable costs were determined, these will be included in the notification as "adverse actions." If any adverse actions are taken, the

[4] Preliminary review findings are subject to change upon further review of noted observations, review of scanned or copied information, and evaluation of any additional documentation provided to the TDA reviewer(s) at the exit conference.

notification will include appeal rights. See Section 8000, *Denials, Terminations, and Appeals* for additional information.

If the CE is determined seriously deficient, the notification will include this information. See Section 10000, *Serious Deficiency,* for information on the serious deficiency process.

5290 Corrective Action

If the CE is determined to be non-compliant with Program requirements, it will be required to correct those non-compliances and submit a corrective action plan (CAP). The CAP will indicate the correction(s) made, including dates, and document the procedures and processes put in place to prevent repeat non-compliance. The CAP will be submitted through the corrective action document tool in TX-UNPS.

A CE will typically be given 20 days to submit its CAP. Failure to correct non-compliances and submit an acceptable CAP by the due date could result in placement in the serious deficiency process.

5300 Periodic Visits

CEs determined to be at risk of Program noncompliance may receive periodic visits from TDA. During these visits, TDA provides technical assistance to improve a CE's management ability and reduce the risk of noncompliance that could result in adverse action, including placement in the serious deficiency process and/or termination of a CE's Permanent Agreement.

TDA has established specific criteria for the uniform selection of CEs that may receive a visit. The criteria evaluate Program operation requirements at both the administrative CE and individual site/provider levels. These criteria are based on information gathered during the application process, visit prior to approval, previous administrative and site/provider reviews, and technical assistance visits. The purpose of this evaluation is to identify error-prone CEs and sites and reduce the risk of Program noncompliance.

See below for an explanation of the specific criteria.

5310 Administrative Operations

TDA uses the following criteria to evaluate if a CE's administrative operations require periodic visits (this list is not all inclusive):

- Inability to complete critical elements of a Program application (e.g., budget, VCA documentation, procurement, monitoring, and training).
- Claiming issues that may include but are not limited to:
    - Submittal of adjusted claims for more than three months during a PY.
    - Repeated submittal of claims that report high or perfect meal counts and attendance (i.e., children are never absent).
    - Significant increases to claims over time.
    - Large upward variations in claiming during the years the CE is not scheduled for review.

- Receipt of complaints from outside organizations or participants.
- Failure to maintain required records, such as receipts for food items or meal production records.

5320 Site/Provider Level Operations

The Texas Department of Agriculture (TDA) evaluates site and provider-level operations to identify potential risk factors that may warrant periodic monitoring visits. The following criteria, though not exhaustive, are considered in the selection process:

- Consistent perfect attendance.
    - A majority or all participants consistently report perfect attendance, indicating potential discrepancies in attendance records.
- Block claiming patterns
    - The site consistently claims the same number of meals and snacks each day, suggesting potential irregularities in meal count reporting.
- Excessive meal claims
    - The number of meals claimed exceeds observed attendance or, as applicable, the site's licensed capacity, raising concerns regarding claim accuracy and potential overclaims.

5400 Audits

Audits are conducted to determine whether a CE's:

- Financial operations are conducted properly.
- Expenditures of Program funds comply with applicable laws and regulations.
- Internal procedures meet the objectives of federally assisted programs.
- Financial statements are correct.
- Financial reports contain accurate information.

5410 General Policy

Non-federal entities (states, federally recognized Indian tribes, local governments, nonprofit organizations, and for-profit organizations) that expend $1,000,000 or more during their fiscal year in federal awards must have an audit conducted for that year. CEs will identify their fiscal year and the source and amount of federal funds they expect to expend on the Annual Audit screen in TX-UNPS each year.

CEs subject to audit must be audited on a single (organization-wide) audit basis by independent auditors and must comply with the requirements found in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

EXCEPTION: If a CE expends federal awards under only one federal program, it may obtain a

Program-specific audit. Auditors must conduct Program-specific audits in accordance with Generally Accepted Government Auditing Standards (GAGAS) and the program-specific audit guide.

Organizations subject to the audit requirement must obtain the audits annually, except under the following circumstances:

- A state, local government, or Indian tribe that, as of January 1, 1987, is mandated by constitution or statute to undergo audits less frequently is allowed to conduct audits every two years (biennially). This requirement must remain in effect for the entire biennial period being audited.
- A nonprofit organization that has obtained biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995 (30-month period). All consecutive audits obtained during this 30-month period must have been on a biennial basis. Any interruption in the biennial process during this 30-month period disqualifies the CE from being able to obtain a biennial audit for fiscal years beginning after June 30, 1996.

NOTE: CEs that are exempt from federal audit requirements are still subject to state or local audit requirements as applicable.

5420 Scope of Audit

Audit(s) must be performed in accordance with GAGAS and must cover the entire operations of the CE. Please note that the lists below are not all-inclusive. Refer to 2 CFR 200.501 for complete requirements.

The auditee must prepare:

- Financial statements.
- Schedule of expenditures of federal awards:
    - List of individual federal programs by federal agency.
    - The name of the pass-through entity and identifying number assigned to that pass-through entity.
    - Total federal awards expended for each Federal program and the Catalog of Federal Domestic Assistance (CFDA) number or other number when the CFDA number is not available.
    - Total amount provided to subrecipients from each federal program.
- Summary schedule of prior audit findings.
- Audit findings (schedule of findings and questioned costs), to include corrective action plans, if applicable.

The auditor must prepare:

- An auditor's report that includes:
    - An opinion about whether the financial statements and schedule of expenditures of federal awards are presented fairly and in accordance with accounting principles.

- A report on internal control and compliance with laws, regulations, contracts, and award agreements that could impact the financial statements.
- A compliance report for major programs and internal control report. A schedule of findings and questions costs.

- Audit Findings
    - Serious deficiencies and abuse found in major program internal controls.
    - Significant violation of federal laws, regulations, or terms and conditions of federal awards for a major program.
    - Known questioned costs exceeding $25,000 for a major program's compliance requirement.
    - Known questioned costs exceeding $25,000 for a federal program that is not audited as a major program.
    - Any circumstances concerning why the auditor's report on compliance for each major program would include a modified opinion unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs.
    - Known or potential fraud related to a federal award unless it is already mentioned as an audit finding. Instances where audit follow-up procedures reveal material misrepresentation of prior audit findings in the summary schedule.

<u>IMPORTANT:</u> The criteria above are not all-inclusive. Refer to 2 CFR 200 for complete requirements.

5430 Compliance with Audit Requirements

CEs that are not exempt from the audit requirement must arrange for an audit conducted by a/an:

- Independent auditor;
- Local government accountant;
- Independent Certified Public Accountant (CPA); or
- Independent public accountant.

Auditors must have been licensed on or after December 31, 1970, and the license or certificate must still be valid. When seeking auditing services, procurement requirements must be followed, and the CE must request a copy of the audit organization's peer review report. Refer to Section 7000, *Financial Management* for more information on procurement requirements. Audits must be submitted as described below within 30 days of receipt from the auditor or nine months after the end of the audit period, **whichever comes first**. Based on the FYE date provided, TDA will notify CEs of the due date for their audit using nine months after the end of the audit period. Failure to receive such notification does not relieve a CE of the responsibility to submit the audit. This notification does not extend the submission date for those who must receive the audit **prior** to the nine-month timeline.

For-profit organizations subject to audit requirements must submit their audit reports to the Federal Audit Clearinghouse (FAC). Audits can be submitted through the FAC website at: https://harvester.census.gov/facweb/

Copies of all audits for all CEs must be submitted to TDA at the following address:

Texas Department of Agriculture
Attn: Business Operations – Audits
P.O. Box 12847
Austin, Texas 78711

The copy can be submitted on paper or electronically. If submitting by email, send to: CACFP.Bops@texasagriculture.gov. Include “Audit – [organization name] and CE ID#” in the subject line. The CE should review and accept the completed audit before submitting it to the clearinghouse and TDA. If the audit is organization-wide but the CACFP is not directly audited, the CE must submit a letter from the auditor stating that the program was included in the random sampling process but was not selected for audit.

5440 Sanctions for Noncompliance

TDA will place a CE in the serious deficiency process if the:

- Audit is not submitted to the clearinghouse by the specified due date (**does not apply to for-profit CEs**).
- Audit is not submitted to TDA by the due date
- CE submits an audit that does not meet the requirements.
    - TDA will notify the CE in writing that the audit is unacceptable. The CE must submit an acceptable audit within 30 calendar days of the date of the notice.

If TDA determines that extenuating circumstances resulted in the CE’s inability to submit an acceptable audit, TDA may conduct an audit directly or through a contract with a third party. The CE is responsible for all associated costs.

5450 Reimbursement for Audits

TDA reimburses CEs the appropriate portion of the cost for organization-wide or program-specific audits. The monies allotted will be based on the funding provided by USDA and the percentage of CACFP funds that the CE receives in relation to all other funding sources. If a CE has evidence confirming that the CACFP portion of an organization-wide audit had a higher actual cost, the CE may request additional reimbursement. However, under no condition will TDA fund 100% of the cost of an organization-wide audit.

A CE must submit a copy of the paid audit invoice to receive payment. The CE cannot include audit costs on a claim for reimbursement or in their budget. TDA only reimburses those CEs that have a permanent agreement and were required to submit an audit.

CEs will not be reimbursed for audits that were:

- Not properly procured.
- Not required by regulation or policy (e.g., audits obtained by CEs that expended less than $1,000,000 in Federal awards).
- Required but not conducted according to regulation or policy.

After all requests for reimbursement have been received for a specific fiscal year, TDA will determine whether sufficient funds are available to pay 100% of the CACFP portion of eligible audits. If sufficient funds are not available, TDA will reimburse each CE a percentage of eligible costs based on dividing the total amount of available audit funds by the total amount of audit funds requested by all CEs.

EXAMPLE: If available audit funds total $250,000 and the total requests received from all CEs is $400,000, TDA will divide $250,000 ÷ $400,000, resulting in a reimbursement percentage of approximately 63%. Each CE will be reimbursed 63% of the amount it requested.

5460 Other Audits

The Texas Department of Agriculture (TDA) reserves the right to conduct additional audits as deemed necessary to ensure compliance with program requirements. In cases where serious deficiencies — such as fraud, misuse of funds, or other significant violations — TDA will take immediate action via the Serious Deficiency process.

Section 6000
Civil Rights

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made since the last release will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
May 2025	Clarified that complaint procedures must protect complainant confidentiality and separate Civil Rights complaints from standard Program complaints.	6160
	Added providing qualified sign language interpreters, large print, Braille, and assistive technologies as possible accommodations for participants with disabilities.	6210
11-28-2022	Updated the Non-discrimination statement per USDA Food and Nutrition Service updates	6120
	Removed content allowing visual observation to report racial/ethnic data. Added best practices for racial/ethnic data and reference to new Data Collection form.	6130
	Added that Civil Rights training is now provided by the Institute for Child Nutrition and provided the SquareMeals.org link to that training.	6150

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Civil Rights

A contracting entity (CE) is responsible for ensuring that all persons have equal access to the program. The CE and sponsored sites cannot discriminate in employment or program participation based on:

- Race;
- Color;
- National Origin;
- Sex;
- Age; or
- Disability.

A CE must strictly adhere to and enforce the provisions of the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA), both within the CEs administrative office and if a sponsor, within the sites it sponsors.

Civil rights laws do allow CEs and sponsored sites to restrict Program participation based on age or sex commensurate with the objectives of the Program, for example, child care centers can deny the participation of elderly persons, shelters for battered women can deny the participation of men.

See handbook section 4100, *Meal Service* for information on the prohibition of separating male and female participants and associated waiver information.

Refer to USDA Food and Nutrition Service (FNS) Instruction 113-1, *Civil Rights Compliance and Enforcement – Nutrition Programs and Activities* for additional information.

6100 Title VI of the Civil Rights Act of 1964

6110 Limited English Proficiency

CEs and sites that fail to provide services to Limited English Proficiency (LEP) potentially eligible persons, applicants, and participants, or deny them access to the Program and activities, <u>may</u> be discriminating on the basis of national origin. Title VI of the Civil Rights Act requires CEs and sites to take reasonable steps to assure "meaningful" access to the information and services they provide.

Reasonable steps to ensure meaningful access is contingent on a number of factors, including:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the CE or site;
2. The frequency with which LEP individuals come into contact with the Program;
3. The nature and importance of the program, activity, or service provided by the Program to people's lives (will the denial or delay of access to the services or information have serious or even life-threatening implications for the LEP individual); and
4. The resources available to the CE or site and costs.

6120 Non-discrimination Statement

CEs and sponsored sites must provide the following non-discrimination statement and complaint-filing procedures in all applications and Program-related information intended for the parents of current and potential participants (see next page):

In English, the non-discrimination statement and complaint-filing procedure is:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: https://www.usda.gov/sites/default/files/documents/ad-3027.pdf, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

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

(3) email: Program.Intake@usda.gov.

This institution is an equal opportunity provider.

In Spanish, the non-discrimination statement and complaint-filing procedure is:

De acuerdo con la ley federal de derechos civiles y las normas y políticas de derechos civiles del Departamento de Agricultura de los Estados Unidos (USDA), esta entidad está prohibida de discriminar por motivos de raza, color, origen nacional, sexo, discapacidad, edad, o represalia o retorsión por actividades previas de derechos civiles.

La información sobre el programa puede estar disponible en otros idiomas que no sean el inglés. Las personas con discapacidades que requieren medios alternos de comunicación para obtener la información del programa (por ejemplo, Braille, letra grande, cinta de audio, lenguaje de señas americano (ASL), etc.) deben comunicarse con la agencia local o estatal responsable de administrar el programa o con el Centro TARGET del USDA al (202) 720-2600 (voz y TTY) o comuníquese con el USDA a través del Servicio Federal de Retransmisión al (800) 877-8339.

Para presentar una queja por discriminación en el programa, el reclamante debe llenar un formulario AD-3027, formulario de queja por discriminación en el programa del USDA, el cual puede obtenerse en línea en: https://www.usda.gov/sites/default/files/documents/ad-3027s.pdf, de cualquier oficina de USDA, llamando al (866) 632-9992, o escribiendo una carta dirigida a USDA. La carta debe contener el nombre del demandante, la dirección, el número de teléfono y una descripción escrita de la acción discriminatoria alegada con suficiente detalle para informar al Subsecretario de Derechos Civiles (ASCR) sobre la naturaleza y fecha de una presunta violación de derechos civiles. El formulario AD-3027 completado o la carta debe presentarse a USDA por:

(1) correo: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; o

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

(3) correo electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.

The non-discrimination statement **must be printed in its entirety** on all Program-related documents produced for public information, public education, or public distribution.

Program-related written materials must be provided to all current and potential program participants with the non-discrimination statement and complaint-filing procedures included.

EXCEPTIONS:

- When material is too small to permit the full non-discrimination statement, the material must include, in font size no smaller than the other text, the following statement: "This institution is an equal opportunity provider." For example, a recipe given to a household as part of nutrition education.

- The non-discrimination statement is not required to be printed on items such as cups, buttons, magnets, and pens that identify the Program when the size or configuration make it impractical.
- When advertising the Program through radio or television announcements, the entire non-discrimination statement does not have to be read; rather, a statement such as "The (name of the CE or site) is an equal opportunity provider" is sufficient.
- The entire non-discrimination statement does not have to be included on every page of a CE's Program information website; at minimum, the non-discrimination statement or a link to the statement must be included on the CE's home page.

NOTE: When human likenesses are used in program materials, reasonable efforts must be made to depict an ethnic balance.

6130 Data Collection and Maintenance

A CE and sponsored sites must determine the number of actual and potentially eligible beneficiaries by both racial and ethnic category currently participating in the program, annually.

To determine the number of *potentially* eligible beneficiaries, CEs and sponsored sites can obtain information from many different resources such as comparative enrollment in other sites, schools, census data, local Chamber of Commerce, and local minority and grass roots organizations.

To determine number of actual beneficiaries, CEs operating an enrolled site typically gather this information within enrollment forms. For sites that do not have enrollment, such as many At-risk sites, the preferred method for obtaining this information is participant self-identification or self-reporting. As of May 17, 2021, federal policy prohibits visual observation as an allowable practice for gathering this data.

While requesting data verbally is allowable, TDA understands that requesting information verbally may be uncomfortable for staff and for participants. Respect for individual dignity should guide the processes and methods of collecting data on race and ethnicity.

Additionally, TDA discourages asking a child to self-identify their race and ethnicity, as this practice may confuse young children. Obtaining data from parents or guardians is the preferred method of data collection, as parents or guardians can provide accurate information. If a parent or guardian is not present at the time of meal pick-up, or if the parent chooses not to identify, their response may be marked "unknown." For that reason, TDA does not expect that the number of respondents will equal the number of children at a meal service site. However, TDA expects CEs to continue to capture the data.

The *Collection of Child Nutrition Program Participant Racial/Ethnic Data Prototypes* form, located on the SquareMeals.org CACFP Administration/Forms page, can assist program operators in capturing racial and ethnic data to the best extent possible.

Racial/ethnic categories include the following:

Ethnicity

(1) *Hispanic or Latino*. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic or Latino."
(2) *Not Hispanic or Latino*.

Race

(1) *American Indian or Alaskan Native*. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
(2) *Asian*. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
(3) *Black or African American*. A person having origins in any of the black racial group of Africa. Terms such as "Haitian" can be used in addition to "Black or African American."
(4) *Native Hawaiian or Other Pacific Islander*. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
(5) *White*. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Children of multiple racial categories may be categorized in more than one racial group.

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

- Providing the information is to ensure compliance with USDA nondiscrimination requirements only
- Failure to report the information will not affect the participant's eligibility for meals.

Program operators of sites that do not require enrollment should choose data collection methods that are easy for adult participants or parents and guardians to use. For this requirement, parents and guardians of children attending non-enrolled sites are not required to provide the participant's name. Parents and guardians must not be required to fill out a free or reduced-price meal application for a non-enrolled program.

After collecting this data, a CE and sponsored sites must:

- Maintain the original data by individual site with documentation of the sources and methods by which it was obtained; and
- Maintain the data and relevant documentation according to the record keeping requirements described in Section 4000, Program Documentation; and
- Establish safeguards to protect the confidentiality of the data.

6140 Administrative and Site Reviews

Reviews help to ensure that civil rights requirements are fulfilled at each level of Program administration, including the application approval process and the federal and state monitoring efforts.

F&N will determine whether a CE and sponsored sites comply with civil rights requirements before approving an application to participate. Compliance is determined by examining the *Pre-Award Civil Rights Compliance Review* form submitted with the initial application, as well as by observation during the visit prior to approval. During administrative and site reviews, F&N will also evaluate compliance with civil rights requirements.

A sponsor must determine a site's compliance with civil rights during its pre-approval visit and during each of its required reviews of its sites.

6150 Training

A CE must complete Civil Rights training prior to Program participation and annually thereafter. In addition, CEs must ensure that all staff that perform key CACFP activities and all sponsored sites, if applicable, are trained in civil rights requirements prior to Program participation and annually thereafter.

Civil rights training for CACFP CEs is accessed through the Institute for Child Nutrition (ICN). Links to the training are available on SquareMeals.org at: https://squaremeals.org/FandNResources/Training/CivilRights.aspx

6160 Complaints

CEs and sponsored sites must have procedures for processing complaints. Staff at all locations must be able to provide documentation of the procedures and an explanation of the complaint process. Procedures must demonstrate the following:

- How Civil Rights complaints are separated from standard program complaints and how each are processed.
- How the confidentiality of complainants is maintained.

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. Complaints can be written or verbal. If the complainant makes a verbal complaint, the person to whom the allegation is made must write up the elements of the complaint and should make every effort to obtain the following information:

a. Name, address, and telephone number or other means of contacting the complainant,
b. The specific location and name of the organization participating in the CACFP,
c. The nature of the incident or action that led to the complaint of discrimination,
d. The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability or sex.),
e. The names, telephone numbers, titles, and business or personal address of persons that may have knowledge of the alleged discriminatory action, and

f. The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

If a civil rights complaint is filed, the CE must forward it to USDA immediately. Sponsors are also responsible for forwarding civil rights complaints filed with a site to USDA.

The complaints should be sent to:

USDA Food and Nutrition Service
Attn: Regional Civil Rights Director
1100 Commerce St.
Dallas, Texas 75242

A courtesy copy should be sent to Community.Ops@TexasAgriculture.gov.

6200 Section 504 of the Rehabilitation Act of 1973

6210 Program Accessibility

The Program, when viewed in its entirety, must be accessible to and usable by disabled persons, including persons with impaired vision or hearing. A CE is not required to make every part of existing facilities physically accessible to disabled persons but must ensure that the Program(s) are accessible.

CEs and sponsored sites must offer the most integrated setting possible to enable persons with disabilities to fully benefit from the Program.

CEs and sponsored sites can make the Program accessible to persons with disabilities by:

- Moving to accessible buildings;
- Assigning aides to assist children;
- Providing qualified sign language interpreters, large print, Braille, and assistive technologies;
- Delivering services at alternate accessible sites (for sites with 15 or fewer employees);
- Redesigning their equipment;
- Changing the schedule of service hours;
- Altering existing facilities; and/or
- Constructing new, accessible facilities.

A CE, and sponsored sites, should develop a transition plan to ensure Program accessibility when structural changes to buildings are necessary.

If a CE or sponsored site cannot provide services to a person with disabilities because a part of a center, day care home, or facility where services are provided is not accessible, it must:

- Inform the person with the disability of alternate sites where they can receive services; and
- Pay all or part of any additional cost the person with disabilities incurs as a result of being transported to the alternate site. (There are some circumstances when a CE or

sponsored site is not required to pay these costs. Contact your Education Service Center for additional information.)

6220 Public Notification

CEs and sponsored sites must:

- Display the official USDA non-discrimination poster ("...And Justice For All") in a prominent place;
- Make Program information available to the public upon request;
- Provide information materials related to the Program in languages other than English, if the need exists; and
- Provide the non-discrimination statement and complaint-filing procedures in all applications and Program-related information intended for the parents of current and potential participants.

CEs and sponsored sites must have a public notification system to inform applicants, participants, and potential participants of the Program availability, Program rights and responsibilities, the policy of non-discrimination, and the procedure for filing a complaint.

The public notification system must include the following three basic elements:

1. Program Availability. CEs and sites must take specific action to inform applicants, participants, and potential participants of their Program rights and responsibilities.
2. Complaint Information. CEs and sites must advise applicants and participants of the right to file a complaint, how to file a complaint, and the complaint procedures.
3. Non-discrimination Statement. CEs and sites must ensure all information materials and sources, including websites, used to inform the public about the Program contain the non-discrimination statement located in Item 6120, *Non-discrimination Statement*.

6230 Employment

CEs and sponsored sites are prohibited from discriminating against any qualified person based on a disability. Reasonable accommodations must be made for the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. A CE or sponsored site is not expected to make accommodations that impose an undue hardship on the operation of the Program.

6240 Food Services

Each participating site must serve special meals without additional charge to children with disabilities that restrict their diet. Refer to Section 4000, *Managing the Program* for additional information related to meals for children with disabilities or special dietary needs.

6250 Designation of Section 504 Coordinator

CEs and sponsored sites that employ 15 or more people must designate one or more persons to coordinate compliance with Section 504 regulations. An existing employee may be designated to perform this function.

6260 Complaint/Grievance Procedures

CEs and sponsored sites that employ 15 or more people must maintain procedures to process complaints and grievances. Procedures that are required by a program other than the CACFP may satisfy this requirement if they comply with due process standards and provide for prompt and equitable resolution of complaints and grievances. Refer to Item 6160, *Complaints*, for minimum information to obtain.

6270 Self-Evaluation of Services

CEs must evaluate the quality and availability of their services to people with disabilities and correct any inequitable policies or practices. The evaluation should be made with the assistance of people with disabilities or organizations that advocate for people with disabilities.

CEs must maintain a list of interested persons with whom it consulted, a description of the areas examined, the problems that were identified, and descriptions of modifications that were made.

CEs must retain the results of a self-evaluation study in accordance with CACFP recordkeeping requirements. Refer to Section 4000 for additional guidance on program documentation.

CEs that are sponsors must ensure their sites are in compliance with all civil rights requirements.

6300 Americans With Disabilities Act

6310 Introduction

The Americans With Disabilities Act (ADA) became effective January 26, 1992. This act and Section 504 of The Rehabilitation Act of 1973 combine to prevent a wide range of discriminatory actions against disabled persons. The ADA, however, does not replace Section 504. The ADA applies to all persons and is not limited solely to persons who receive federal financial participation.

The ADA comprises the following subjects:

- Non-discriminatory practices
- Reasonable accommodation

The ADA applies to the following areas:

- Services; and
- Employment.

6320 Services

When evaluating the services offered, including at sponsored sites, the CE should consider the following questions:

- Can the person with disabilities get to the facility with reasonable ease?
- If the person can reach the location, can they enter the facility and access the specific location where services are provided?
- If they can access the location where services are provided, is there an accessible bathroom?
- If they can access the location where services are provided, are necessary accommodations made for their particular disability?

6330 Employment

In accordance with the ADA, CEs and sponsored sites:

- Cannot discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job.
- Can inquire about a person's ability to perform a job but cannot ask whether a person has a disability or subject a person to tests that screen out people with disabilities.
- Must provide "reasonable accommodation" to persons with disabilities (for example, job restructuring and modification of equipment).

NOTE: A CE or sponsored site is not required to provide accommodations that impose an undue hardship on their business.

Section 7000 Financial Management

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made this Program Year will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
May 2025	Consolidated content from all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	Throughout
	Rewrote and reorganized throughout to enhance clarity and readability.	
	Updated broken URLs throughout as needed	
	Clarified that sponsors may allow their sites (day care homes, affiliated centers, or unaffiliated centers) to purchase food and other items according to their own practices, even if those procurements do not uphold federal requirements for free and open competition.	7200
	Added clarifying language about micro-purchases and small purchases applying to a single transaction.	7211, 7212
	Added that development of clear technical requirements must be included as a step in documented procurement procedures	7212, 7261
	Corrected formal procurement threshold to anything less than $50,000 can use informal procurement. Anything $50,000 or over requires formal procurement.	7213.1
	Clarified that CEs must use TDA's Invitation for Bid prototype to procure vended meals.	7213.3
	Provided options and instructions for how to properly advertise a formal procurement solicitation.	7213.4
	Added a link to the Emergency/Sole Source Procurement Request Form on SquareMeals.	7214, 7214.1, 7214.2

	Added content about forecasting and performing a cost analysis to determine if formal procurement is more cost effective than multiple micro-purchases over the course of a year.	7215
	Specified that contracts should include a provision for non-payment for expenses unallowable under the Program	7221
	Specified that contracts should contain a provision for compliance with mandatory standards and policies relating to energy efficiency	7221
	Specified that contracts for more than the simplified acquisition threshold (currently $250,000) must contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.	7221
	Added strategies related to geographic preference that may be used when procuring unprocessed locally grown, raised, or caught agricultural products	7224
	Clarified that signed copies of all Invitation for Bid and Contracts must be submitted to TDA prior to operations under that contract.	7230
	Clarified requirements about new provisions added to an existing vended meals contract.	7231
	Clarified that sponsored child care centers, At-Risk centers, and adult day care centers must maintain a nonprofit food service account. Day care home providers are excluded from this requirement.	7300
	Added additional content explaining requirements for using and carrying over, if applicable, administrative reimbursement.	7312.1, 7312.2
	Provided more clarification on unused reimbursement and how to manage excess net cash resources in the non-profit food service account.	7330
	Clarified that specific prior written approval is not required every year for multi-year contracts.	7410
	Updated method for submitting SPWA requests.	
	Clarified that in their budgets, sponsors of unaffiliated centers must limit their administrative expenses to 15% of the estimated or actual reimbursements received during the Program Year.	7430
	Clarified that computer equipment valued under $10,000 would be considered “supplies” and not equipment.	Supplies and Equipment

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7100 Financial Controls

A CE's financial management controls must be in compliance with 2 Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 48 CFR Part 31, *Contract Cost Principles and Procedures*, 7 CFR Part 226, *Child and Adult Care Food Program*, FNS Instruction 796-2 *Financial Management – CACFP*, and TDA policies. The financial controls must provide for the following:

- Identification, in its accounts, of the Federal awards received and expended, and the Federal programs under which they were received. Federal program and Federal award identification must include:
    - The Catalog of Federal Domestic Assistance (CFDA) title and number (for example, Child and Adult Care Food Program #10.558);
    - Federal award identification number (FAIN) and year;
    - Name of the Federal agency; and
    - Name of the pass-through entity, if any.
- Accurate, current, and complete disclosure of the financial result of each Federal award or program.
    - Up-to-date correct information supported by documentation
    - Accounts for all elements of the Program
    - Complies with generally accepted accounting principles (GAAP)
- Records that identify adequately the source and applications of funds for federally funded activities. The records must contain information pertaining to the Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest, and must be supported by source documentation.
- Effective control over, and accountability for, all funds, property, and other assets. The CE must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- Comparison of expenditures with budget amounts for each Federal award.
- Written procedures to ensure:
    - Disbursement of funds is done in a manner that minimizes the amount of time between the CE's receipt of the funds to the disbursement of those funds, whether disbursement is made by electronic funds transfer, checks, warrants, or payment by other means.
    - Request and use of advance payments only after other resources have been exhausted, and in accordance with 2 CFR 200.
- Written procedures for determining if costs are allowable in accordance with 2 CFR 200 and FNS Instruction 796-2 *Financial Management – CACFP*.

- Internal controls that ensure the CE:
    - *Manages* the Program in compliance with Federal statutes, Federal regulations, and TDA rules, policies, and guidance.
    - *Complies* with Federal statutes, Federal regulations, and TDA rules, policies, and guidance.
    - *Evaluates and monitors* its compliance with Federal statues, Federal regulations, and TDA rules, policies, and guidance.
    - *Takes prompt action* when instances of noncompliance are identified, including noncompliance identified in audit findings.
    - *Safeguards* protected personally identifiable information and other information.

These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government"[1] issued by the Comptroller General of the United States or the "Internal Control Integrated Framework"[2] issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Reference also Section 2000, *Eligibility and Application Requirements* for Viability, Capability, and Accountability (VCA) performance standards. VCA processes and procedures submitted during the application process must be in compliance with the above and must be updated as changes occur.

Federal awards include, but are not limited to, reimbursement from participation in any of the child nutrition programs administered by TDA.

7200 Procurement

Procurement is the orderly process of acquiring, by lease or purchase, goods and services such as food, meals, equipment, bookkeeping, and auditing. Procurements must be conducted in a manner that allows for full and open competition (meaning everyone that wants to bid is on a "level playing field" and has the same opportunity to compete). A CE must comply with state and federal procurement requirements. These requirements enable the purchase of goods and services at the best available price and avoid conflicts of interest when making purchases.

Costs incurred through improper procurements are unallowable. If TDA disallows costs because of improper procurements, it may be determined that the food service operation is not nonprofit and could result in adverse action, up to and including termination of the CE's participation in the CACFP.

By contracting with TDA to be a sponsor in the CACFP, the CE has accepted final administrative and financial responsibility for the operation of the Program, including the operation of the

[1] https://www.gao.gov/products/gao-14-704g#:~:text=Standards%20for%20Internal%20Control%20in%20the%20Federal%20Government%20(the%20%E2%80%9CGreen,an%20effective%20internal%20control%20system.
[2] https://www.coso.org/guidance-on-ic

Program at sponsored sites/providers. Any fiscal action as a result of a sponsored site/provider's failure to operate the Program correctly will be taken against the sponsor.[3]

NOTE: All sponsored sites/providers (day care homes, affiliated centers, or unaffiliated centers) are exempt from formal federal procurement guidelines and may purchase food and other items according to their own practices, even if those procurements do not uphold federal requirements for free and open competition[4].

7210 Procurement Methods

7211 Micro Purchases

A micro-purchase is the acquisition or purchase of products or services that have a cost that does not exceed the micro-purchase threshold of $10,000 within a single transaction.

When using the micro-purchase method, formal quotes and a formal cost analysis are not required. However, the CE must ensure that the cost of the product and/or service is reasonable (for example, by performing a cost comparison). Cost comparisons can be as simple as a list of commonly purchased items with comparison prices from two to three different vendors, newspaper advertisements, or spreadsheets. The method and frequency must be documented in the written procurement procedures.

To the extent practicable, the CE must distribute micro-purchases equitably among qualified suppliers/vendors. This can be accomplished in many ways, such as alternating suppliers/vendors each month, or purchasing some items from one vendor and other items from another vendor on the same day. The CE/site must still ensure the cost is reasonable and that micro-purchase is the proper method.

7212 Small Purchases

If purchasing services, supplies, or other property with a single transaction cost greater than the $10,000 micro-purchase threshold but less than $50,000, either small or formal procurement procedures must be used.

Small purchase procedures require a CE to obtain price quotations from an adequate number of qualified sources (for example, three vendors).

Acceptable forms of price quotations include but are not limited to:

- Newspaper advertisements from various suppliers/vendors.
- Online advertisements from various suppliers/vendors.
- Documentation of phone quotes from various suppliers/vendors to include:

[3] School Food Authorities operating the National School Lunch Program (NSLP) and either CACFP child care centers or at-risk afterschool care centers have the option to comply with NSLP procurement standards as outlined in 7 CFR 210.21 and TDA's Administrator's Reference Manual for NSLP (located on SquareMeals.org).
[4] FNS Instruction 796-2, Rev. 4, Exhibit J, Procurement (p. 12)

- Supplier/vendor name.
- Name of person providing information.
- Date(s) of contact.
- Information provided, including product and pricing.

Procurement procedures must include a step for developing clear and accurate technical requirements for the material, product, or service to be procured. Specifications must be developed prior to obtaining quotes to ensure the determination that the small purchase method is the appropriate procurement method and to ensure that the quotes from suppliers/vendors are for the same goods and services.

7213 Formal Procurement

7213.1 Competitive Sealed Bids

Competitive sealed bids must be used if a purchase is equal to or more than $50,000 and the CE can:

- Completely and accurately describe the goods or services it wants to purchase.
- Locate two or more responsible bidders that are willing to compete for the business.
- Award a firm-fixed price contract.
  - Fixed price means a price that is fixed at the inception of a contract and is guaranteed for a specific period of time. A fixed-price contract may also contain an economic cost adjustment provision tied to a standard index.
- Choose from among bidders mainly on the basis of price.

EXAMPLE: A CE purchases milk at a cost of $57,000 per year. There are several milk vendors in the community. Since the purchase is over $50,000 and this type of purchase lends itself to sealed bids, the CE must use this method of procurement.

When conducting a competitive sealed bid, CEs will:

- Advertise publicly in accordance with *Advertising* below.
- Solicit bids from an adequate number of known suppliers.
- Clearly describe the items or services to be purchased in the invitation for bid.
- Publicly open the bids at the time and place stated in the invitation.
- Award the contract to the lowest responsive and responsible bidder that meets the requirements of the invitation.
- Document any and all reasons a bid is rejected.

EXCEPTION: A CE may award a contract to a supplier that is not the lowest bidder if the CE has sound documented business reasons for doing so, and this documentation is submitted to TDA for approval prior to the award.

7213.2 Competitive Proposals

Competitive proposals for purchases of $50,000 or more should be used when the conditions for sealed bids do not exist. The competitive proposals method of procurement requires a CE to publicize a request for proposals (RFP) and solicit proposals as well. After the proposals are received, the CE will evaluate responsive proposals and, upon award, may conduct contract negotiations with two or more respondents.

When using competitive proposals, CEs must:

- Solicit proposals from an adequate number of qualified sources.
- Advertise the RFP.
- Honor all requests to compete as far as practical.
- Identify all evaluation factors and their relative importance in the RFP.
- Have a written procedure for
  - Evaluating proposals,
  - Determining with whom they will negotiate, and
  - Selecting the successful bidder.
- Award contracts to the most advantageous bidder.
- Promptly notify unsuccessful bidders.

EXAMPLE: A CE wants to purchase accounting services that would cost more than $50,000 per year. Since several factors are of equal or greater importance than price, the CE may want to use competitive proposals for this purchase rather than a competitive sealed bid.

7213.3 Developing Specifications and Solicitations

Written procurement procedures must indicate a step for developing specifications and solicitations when the formal procurement method is used. When developing specifications and solicitations:

- The description and scope (specifications) must be in line with what is being procured.
- Must be clearly stated so that bidders will understand and can be responsive to the need.
- Must identify all of the requirements that bidders must fulfill so that changes do not need to be made to a contract after it is awarded, including identification of prohibited expenditures.
- Must include evaluation and scoring factors, with cost as the primary factor.
- Must not contain features which unduly restrict competition.

CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder (for example, provision which allows for individual competitive procurement of similar items during peak seasons; emergency provisions, etc.)

A CE cannot allow any entity bidding for a contract award to develop:

- Specifications.
- Requirements.
- Statements of work.
- Invitations for bids.
- Requests for proposals.
- Contract terms and conditions.
- Other procurement documents.

CEs must draft its own specifications and procurement documents (**EXCEPTION** – CEs must use TDA's *Invitation for Bid and Contract for Purchased Meals (IFB)*[5] when procuring vended meals. See *Vended Meals* below).

Any CE that copies a list of features or evaluation and ranking criteria drafted by a potential vendor and then permits that potential vendor to submit a bid has violated both Federal and State procurement regulations.

While it is understood that CEs have broad discretion in gathering information for use in connection with procurements, any information from potential bidders must be appropriately modified to develop tailored specifications; otherwise, these bidders must be excluded from competing. This is to ensure objectivity and eliminate unfair competitive advantage.

EXCEPTION: If CEs choose to use a vendor's information or assistance in developing procurement documents and the vendor is allowed to compete for the award, then the CE **must not** use any CACFP or any other Child Nutrition Program funds for the resulting award.

7213.4 Advertising

When advertising a formal procurement solicitation, the advertisement must be posted for no less than 14 calendar days utilizing one or more of the following options:

- **Option 1:** A publication of general circulation covering the area served by the CE. This includes electronic media publications or a combination of both print and electronic. For a print publication that publishes other than daily, a single advertisement would count for the full number of days that the publication is in circulation. Where there is limited circulation, advertisements should also be run in the largest metro area near the CE.

- **Option 2:** Qualifying CEs may elect to advertise their solicitation online in the Texas Comptroller-managed Electronic State Business Daily (ESBD) in order to satisfy notification requirements.

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[5] Located on the CACFP Administration/Forms page at: https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Administration-Forms

In computing the period of days, the first day is excluded, and the last day is included. In addition, if the last day of any period is a Saturday, Sunday, or legal holiday, the period must be extended to include the next day that is not a Saturday, Sunday or legal holiday.

7214 Non-Competitive Proposals

In non-competitive proposals, the CE negotiates with a single source. This method may be used only when the CE has submitted a written request and been granted permission from TDA via the Emergency Procurement/Sole Source Request[6] form on SquareMeals.org. TDA may approve the use of this method when one or more of the following conditions exist:

- The item that the CE wants to purchase is only available from one source;
- A public exigency or emergency exists, i.e., when the urgency for the requirement will not permit a delay incident to competitive solicitation;
- After solicitation of a number of sources, competition is determined inadequate.

7214.1 Sole Source

The product and/or service is available only from a single (sole) source distributor, supplier, or manufacturer. For a sole source method to be used, there must be only one possible source for the product and/or service. A CE cannot accept a statement from the supplier, distributor, or manufacturer as verification that the product and/or service is only available from a single source. To determine if the product and/or service is sole source, a CE must:

- Attempt to solicit offers from other suppliers, distributors, or manufacturers
- Retain records that demonstrate its efforts to solicit offers for the product and/or service from other suppliers, distributors, or manufacturers.

TDA must approve all sole source procurement transactions before the award of the contract. To request approval to use a sole source contract, the CE must submit a request via the Emergency Procurement/Sole Source Request form on SquareMeals.org. In its request, the CE must include the following information:

- Description of the CE's actions to ensure that the supplier, distributor, or manufacturer is sole source.
    - CE's review may include questioning other vendors of similar products/services to determine if those vendors can meet the precise needs of the CE. If not, written justification should be provided to TDA as to why a particular vendor would not qualify as a source.
- Copies of the CE's solicitation, advertising, and other relevant documentation that demonstrate that the supplier, distributor, or manufacturer is a sole source.

[6] https://app.smartsheet.com/b/form/c6689484ed8a4b45846e10ebcb24fd23

When there is a compelling need to purchase a specific brand product and/or service, such as compatibility with current equipment, the CE must have documentation that demonstrates other available brands are not compatible with the CE's:

- Current equipment,
- Replacement part inventory, and
- Maintenance staff's expertise.

However, even if the CE meets the brand name sole source purchase criteria listed above, the CE must still determine if there is more than one supplier for the brand of equipment or the services. If there are multiple suppliers, the CE must follow normal procurement processes in awarding a contract.

NOTE: In some cases, collaboration or affiliation among suppliers providing a specific brand name may restrict competition. CEs will need to address this as appropriate to ensure full and open competition.

TDA will provide written notification of approval or disapproval.

NOTE: A procurement where there is only one offer is not necessarily sole source. There may be other suppliers, distributors, or manufacturers that could have submitted an offer but chose not to. Refer to *Inadequate Competition* below for more information.

EXAMPLE: There are three companies that commonly provide the type of cooking equipment that a CE is attempting to procure. Company A chooses not to bid because it is unable to meet the delivery timeline. Company B no longer distributes the line of products that would have met the specifications and technical requirements. Therefore, Company C is the only offeror. In this situation, the **single offer submitted is not sole source**. Rather, it is an inadequate competitive response to the solicitation.

7214.2 Public Exigency or Emergency

A public emergency (exigency) or unexpected emergency is a situation that will not permit a delay resulting from the additional time required for a competitive solicitation for the product and/or service. Emergency non-competitive procurement requires TDA approval.

To request approval to use a non-competitive method during an emergency, the CE must submit the Emergency Procurement/Sole Source Request[7] form. In cases of extreme emergency, a CE may call TDA directly or their regional Education Service Center (ESC) to alert TDA about the situation. The request must still be submitted in writing, but a phone call will raise TDA's awareness of the need for an expedited response. In its written request, the CE must include the following information:

- Explanation of the circumstances that require an emergency purchase.
- A detailed description of the products and/or services to be procured.

[7] https://app.smartsheet.com/b/form/c6689484ed8a4b45846e10ebcb24fd23

- Supplier, distributor, or manufacturer from whom the product and/or services will be procured.
- Period of time the CE plans to use the noncompetitive method for the emergency.

TDA will provide written notification of approval or disapproval.

7214.3 Inadequate Competition

If, after the CE actively and appropriately attempted to solicit offers from a number of sources, the number of offers that met the solicitation specification and technical requirements (i.e., responsible and responsive offers) was less than expected, the competition is deemed inadequate. This would include when a CE receives only one responsible and responsive offer.

This may occur when a CE is so remotely located that there is a very limited number of qualified sources in the area. In this case, a CE may only pursue a noncompetitive procurement if it has ensured that the specifications in the original IFB or RFP are not so restrictive that they limit other potentially qualified bidders, and that the proposal has been publicized.

After engaging in competitive purchasing procedures, the CE does not need TDA approval to award a noncompetitive bid when there are a limited number of offers as long as documentation is retained by the CE that proves its due diligence in ensuring that the CE did not limit competition. Examples of this due diligence include but are not limited to the following:

- Performing reviews of the solicitation and advertising process.
- Surveying suppliers, distributors, or manufacturers to determine why a bid was not submitted.
- Retaining copies of the solicitation, advertising, mailing lists, communication documents, contact logs, and other relevant documentation to support their findings.

7215 Forecasting

Forecasting must be included as a step in the CE's written procurement procedures. When preparing a budget, CEs should conduct forecasting to determine what goods or services might be needed throughout the program year. Plan procurements by evaluating resources, projecting expenses, and determining needs prior to initiating a procurement process by assessing:

- Current approach, such as meal preparation (self-preparation, central kitchen, need for a Food Service Management Company (FSMC)).
- Storage capacity.
- Equipment.
- Resources, such as income/revenue and staff.
- Other operational needs.

Generally, the cost of the goods or services in a single transaction will determine the procurement method to be used. A single transaction occurs when goods or services are purchased from the same supplier at the same time, regardless of the quantity of items purchased or the length of payment terms (for example, payment over a specified period of time such as 12 months).

CEs can choose to use a formal procurement method for items that fall below the $50,000 threshold but cannot use an informal procurement method for items that equal or exceed the $50,000 threshold. If total cost for the year for a particular good or service will equal or exceed $50,000, the CE should perform a cost analysis to determine if procuring a vendor via formal procurement for that good or service is more economical than multiple single purchases under the micro-purchase method. Any costs that the CE incurs as a result of the CE intentionally breaking up larger purchases into smaller amounts to qualify under the micro-purchase threshold are unallowable costs.

CEs must document in their procurement procedures any other factors, such as distance, storage, etc., and decision steps that will be used to determine the method. Regardless of the dollar amount or the method of procurement used, CEs must ensure full and open competition and follow their written procurement procedures.

CEs cannot:

- Require unreasonable credentials for potential bidders when qualifying them to do business.
- Allow non-competitive practices between suppliers.
- Permit organizational conflicts of interest.
- Impose unnecessary experience and bonding requirements on suppliers who seek the CE's business.

7220 Contracts

Contracts must be sound, complete, and include certain required elements as discussed in *Contract Provisions* below.

Cost-reimbursable contracts are unallowable. These include cost-plus-fixed fee, cost-plus-incentive fee, cost-plus-award fee, and cost-plus-percentage-of-cost contracts. Cost-reimbursable contracts provide for payment of allowable costs plus the payment of a fixed fee to the contractor.

Forward contracts (ones in which products are bought or sold at a specified time in the future at a price agreed upon today) with local producers, or contracts with a Community Supported Agriculture (CSA) program are allowable. However, CEs are responsible for ensuring that all costs are reasonable, necessary, and allocable, and these two types of contracts require CEs to commit to buying products that may or may not actually be produced. Therefore, before entering into such a contract, the CE must give careful consideration to the potential risks weighed against the benefits.

Should the CE choose to retain the services of a contractor to perform one or more functions, the CE is still required to retain final administrative and financial oversight and responsibility of the work performed by the contractor.

CEs may not contract out the management of the Program; however, they may subcontract some Program activities required in the management of the CACFP. Refer to Section 3000, *Program Agreement*, for additional information.

Contact your Education Service Center (ESC) for additional information and guidance.

7221 Contract Provisions

In order to subcontract specific CACFP activities, the CE must ensure that the:

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

Written agreements must be established with a contractor if the activities to be performed by the contractor are directly related to the CACFP. The written agreement must at a minimum:

- Identify the person(s) or party(ies) that will perform the subcontracted activities, including any assumed names;
- Certify that neither the contractor, nor any of its staff, are included on the National Disqualified List (NDL) or the Texas Excluded SFSP List (TEXSL);
- Identify the specific activities that the contractor will be performing (i.e., Scope of Work);
- State that the CE (not the contractor) accepts "final administrative and financial responsibility for the operation of the CACFP";
- Stipulate the requirement of the contractor to protect confidential information;
- Provide addresses, including mailing and street addresses for both parties;
- Designate who will receive any formal notices and the acceptable manner for the delivery of such notice;
- Include the contract term (i.e., the duration of the contract);
- Include a contract renewal clause, if applicable;
- Specify conditions for requesting and receiving approval for any price increases, if applicable;
- Specify the total cost not to exceed a definite amount;

- Include specifications regarding the rate of progress of the work and the acceptable fulfillment of the service;
- Specify payment terms, including non-payment for unallowable expenses;
- Provide a dispute resolution process;
- Outline the responsibilities of both parties;
- Include terms for abandonment or default (i.e., if the contractor defaults on the contract, the CE reserves the right to terminate the contract), including sanctions and penalties as appropriate; and
- Specify conditions for termination including:
  - Termination for Convenience - The CE reserves the right to terminate the contract at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice of intent to terminate.
  - Termination for Cause - The CE reserves the right to terminate the contract for cause if the contractor fails to perform in full compliance with the contract requirements, through no fault of the CE, by providing thirty (30) calendar days advance written notice of intent to terminate.

All contracts procured with federal funds must include the following provisions:

- The equal opportunity clause provided under 41 CFR 60-1.4(b);
- A provision for compliance with the Davis-Bacon Act provided under 40 U.S.C. 3141-3144 and 3146-3148;
- A provision for compliance with mandatory standards and policies relating to energy efficiency that are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163)
- A provision for compliance with the Contract Work Hours and Safety Standards Act at 40 U.S.C. 3701-3708, for awards in excess of $100,000; and
- The *Certification Regarding Federal Lobbying* (H2049), for contracts in excess of $100,000, in accordance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Contracts for more than the simplified acquisition threshold (currently $250,000) must contain provisions or conditions that will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

Contracts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

Additionally, the CE must obtain:

1. A debarment certification from the contractor in one of the following manners:

- Include the following debarment and suspension certification in the written agreement with the contractor:

  (1) The prospective contractor certifies to the best of its knowledge and belief that it and its principals:

    (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

    (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

    (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

    (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

  (2) Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

- Require the contractor to sign and submit the TDA Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts (H2048); or

- Print the page from the *System for Award Management* which indicates the contractor is not presently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas and maintain that document on file with the subcontract documents. The *System for Award Management* can be accessed at: https://www.sam.gov/.

2. Certification Regarding Federal Lobbying (H2049) for any subcontract of $100,000 or more.

CEs should also include any other factors, in both the solicitation and the resulting contract, that affect the bidder, such as a provision which allows for individual competitive procurement of similar items during peak seasons.

For additional guidance on contract provisions, refer to *2 CFR 200, Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards* located at https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200.

7222 Compensation for Purchased Services

If a CE agrees or contracts with a consultant or contractor for the purchase of a service, compensation for that service will be based on the provisions of the contract or agreement. When a contract or agreement identifies a fee or compensation that is based on a set percentage, the contractor or consultant cannot assess additional fees.

EXAMPLE: A contractor or consultant cannot charge sales tax on services in addition to a set percentage that is assessed for that service as stated in the contract or agreement. If a contractor or consultant charges sales tax on the service that they provide, they must extract the tax from the compensation (that is, set percentage) that is stated in the contract or agreement.

7223 Contract Duration and Renewal Options

The term of contracts cannot exceed 12 months and can include a provision for up to four renewals in the four consecutive years following the initial year (procurement year) of the contract, if the scope and purpose of the contract have not changed.

Prior to renewing a contract, the CE must evaluate the terms and determine if conditions or circumstances have changed that would require re-procurement.

Some examples of changes that would affect the original scope and purpose include, but are not limited to:

- The addition of new services.
- Adding participation in another program.
- Adding sites not originally included in the procurement.
- Other changes that would materially affect the contract.

7224 Geographic Preferences

CEs may apply geographic preferences when procuring unprocessed locally grown or locally raised agricultural products.

The CE must include in its written procurement policies and procedures its definition of *local* for the use of this option. Definitions might include "within the state," "within specific counties," or "within a specific number of miles." This means products procured using geographic preference must come from animals or produce that are caught (e.g. fish), raised, or grown in the area defined by the CE as "local." The CE must ensure its definition does not restrict full and open competition (for example, a definition that includes "within 5 miles"), and that it adheres to its own definition or it risks the procurement being determined unallowable.

Two strategies that may be used when procuring unprocessed locally grown, raised, or caught agricultural products include:

- Using local as a specification (i.e., the written description of a product or service that a vendor must meet to be considered responsive to a solicitation).
- Using a defined scoring advantage while scoring bids in response to a solicitation. This means giving additional points or credit to bids for local unprocessed agricultural products that meet the CE's definition of local. Common methods for applying a defined scoring advantage include, but are not limited to:
    - Giving a price or percentage reduction in the bid evaluation process, which does not affect the actual price paid to a bidder, and awarding the solicitation to the lowest bidder;
    - Granting bonus points to bidders offering local products and awarding the solicitation to the bidder with the highest points; and
    - Offering a sliding scale of bonus points or price reductions in the bid evaluation based on the percentage of local products the bidder could provide.

With any method, CACFP CEs must clearly define and describe the method in the solicitation and ensure it does not unreasonably limit competition.

Geographic preference can **only** be applied to products that are locally grown and locally raised, and that have not been cooked, seasoned, frozen, canned, or combined with any other products. This does not preclude foods that have been handled and prepared to make them usable, such as washing vegetables, bagging greens, chopping, cutting, slicing, dicing or shucking, butchering livestock and poultry, pasteurizing milk and putting eggs in a carton, as well as using a minimal amount of preservatives to prevent spoilage.

Allowable products include, but are not limited to:

- Fruits.
- Vegetables.
- Meats (including fresh or unprocessed frozen products and formed products such as patties that contain no additives or fibers).
- Fish (including whole, form, filets, or nuggets that contain no additives or fillers).
- Poultry (including whole, form, or various cuts).
- Dairy (applies to unflavored pasteurized fluid milk that meets State and local standards only).
    - Flavored milk or any processed dairy products, such as yogurt, cheeses, etc. are not allowed.
- Eggs.
- Grains (including quinoa, rice, barley, etc. in whole form and other grains in ground form such as flour).

The option to allow geographic preferences when procuring unprocessed locally grown or locally raised agricultural products does not eliminate the requirement for procurements to be conducted according to the policies and procedures outlined in this handbook.

For more information on the geographic preference, refer to additional USDA guidance here: https://www.fns.usda.gov/f2s/geographic-preference-option-qa-memo

7230 Vended Meals

A CE may contract with a vendor to provide meals to be used in its food service. TDA has developed a standard *Invitation for Bid and Contract for Purchased Meals* (IFB) that must be used for purchased meal procurements and contracts, regardless of the amount of the contract.[8] The term of the contract cannot exceed 12 months. See below for contract renewal options.

The IFB can be found at http://www.squaremeals.org, under CACFP Administration and Forms, under Form Number "IFB." The CE must submit the contract to TDA (CACFP.Bops@TexasAgriculture.gov) for review and approval before it is signed, and a signed copy must be submitted to TDA prior to operations under that contract. Contact your ESC for questions regarding the procurement process.

It should be noted that the procurement process for purchased meals can take up to six months, so CEs should plan accordingly to ensure a plan for preparation of meals is in place during the process.

CEs that have existing contracts for vended meals at the time they apply for participation can continue under their existing contracts, including renewals, with the following exceptions:

- If the scope and purpose of the existing contract have changed, the CE will be required to re-procure using the TDA IFB.
- If the existing contract does not meet the requirements and guidelines, it is unallowable; the existing contract would need to be terminated and re-procured using the TDA IFB.

CEs contracting with franchise restaurants for meals must ensure that procurement procedures are followed, including competition and use of the TDA IFB.

7231 FSMC Contract Renewal Options

CEs may renew an existing FSMC/vendor contract during each of the four consecutive years following the base year (procurement year) of the contract, if the scope and purpose of the contract does not change.

Examples of changes that would affect the original scope and purpose of an existing contract, thus requiring new procurement, include:

[8] CEs purchasing meals from a school food authority that participates in the National School Lunch Program (NSLP) are not required to conduct procurement for purchased meals.

- The addition of new services, such as providing catering or vended meals to sites not under the sponsorship of the CE, concessions, or vending machines;
- Adding participation in another TDA-administered program;
- Changes in fees or the basis for fee increases not reflected in the original Invitation for Bid and Contract for Purchased Meals;
- A major shift in responsibilities for the CE, sponsored site, or the FSMC/vendor staff; or
- Changes to the formula that is used to identify a meal.

NOTE: Any additional provisions to the contract that do not alter the original scope of the contract must be submitted to TDA for approval.

CEs must follow established procurement procedures when obtaining an FSMC/vendor contract for the base year. The contract period may only be effective for a maximum of one year to end September 30 each year. The contract can then be renewed each of the four consecutive years following the base year without going through the procurement process if the scope and purpose have not changed. After the base year and four renewal years have passed, the CE must go through the procurement process using the procurement method appropriate to their needs when obtaining a contract for purchased meals.

NOTE: The base year coincides with the Program Year, October 1 through September 30.

7240 Procurement using Cooperatives, Agents, and Third-party Entities

Cooperatives, agents, and third-party entities can be beneficial in assisting CEs in obtaining better buying power and ensuring proper procurement when the CE does not necessarily have the technical understanding of the process. However, using any of the following options does not relieve the CE from administrative and financial responsibility for proper procurement as conducted by the CE itself or on behalf of the CE using one of the methods discussed below.

These methods are not a type of procurement, and a CE using any of the options below to conduct procurement must ensure that procurements are conducted in a manner maximizing full and open competition and that all costs are necessary, reasonable, allocable, and otherwise allowable per 2 CFR 200.403, applicable cost principles in 2 CFR 200, subpart E, and FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.

7241 Cooperatives

A cooperative that is comprised solely of CEs may procure as a group and must do so in compliance with the procurement standards that apply to the CE (7 CFR 226.22, and/or 48 CFR Part 31, and 2 CFR 200).

This includes complying with all State and local procurement standards, if more restrictive, and publishing solicitations and contracts with all terms, conditions, required contract provisions, as applicable. All solicitations must clearly identify all product descriptions, specifications, and estimated quantities required. Further, each CE that is a member of the cooperative is responsible for monitoring contractor performance to ensure compliance with all contract provisions. Written agreements delineating roles and responsibilities are encouraged.

7242 Agents

An agent is a person or business authorized to act on a client's behalf. An agent may be necessary for procuring goods or services when/if the CE does not have the necessary technical understanding of the equipment, service, food, or other food service supplies to be purchased, or lacks time or expertise to conduct a proper procurement. A procurement agent represents a special fiduciary relationship of trust between itself and the CE. In other words, the agent must be contractually required to conduct all competitive procurement methods with the CE's interests solely in mind. An agent's services in excess of the micro-purchase threshold of $10,000 must be competitively procured in accordance with Federal procurement methods outlined in 2 CFR 200.

When an agent is needed to procure goods and services on behalf of the CE, the CE must first determine if the agent fee is within the micro-purchase threshold or if a competitive procurement method must be conducted for the services of the agent. If a solicitation is required, the scope of duties and responsibilities must be clearly defined as well as how prices/costs for services are to be quoted for evaluating agents' bids/responses for contract award.

Some agents often charge fees to vendors who pass such fees on to the CE. CEs must not enter into a contract with an agent that charges the CE a fee **and** charges the vendor a fee. The CE must include in its solicitation if the agent will be paid based on a:

- Flat fixed-rate for services; or
- Fee based on purchase unit, volume, or cost. Fees based on a purchase unit, volume, or cost must be fixed (fees cannot be a percentage of cost). If this method is selected, agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume, or cost for their service; or
- Vendor fee charged to the vendor by the agent, which is paid to the CE and used by the CE to pay the agent's fee. If this method is selected, the vendor fee must be based on a purchase unit, volume, or cost and must be fixed (fees cannot be a percentage of cost). If this method is selected, agents cannot be considered if they do not openly provide the full fixed fee rate based on price per purchase unit, volume, or cost for their service.

CEs must include language in its solicitations and contracts that stipulates that agents must follow procurement procedures consistent with 2 CFR Part 200 and applicable Program regulations, or State and local procurement requirements if more restrictive. Published solicitations and contracts must include all terms, conditions, required contract provisions, as applicable, and all product descriptions, specifications, and estimated quantities required.

The procurement agent must confirm in its response to the solicitation that it will represent the CE and will have the CE's best interests exclusively in mind when preparing solicitations for publication on the CE's behalf. The agent may not have any conflict of interest, real or apparent. For example, the agent may not use pre-existing contractual relationships in lieu of conducting a competitive procurement on behalf of the CE.

In order to ensure free and open competition, the procurement agent must:

- Work closely with the CE to understand the CE's needs;
- Develop solicitations on the CE's behalf consistent with 2 CFR Part 200 and applicable Program regulations as required for the CE as noted above;
- Award contracts only to responsible contractors whose bid/offer is lowest/most advantageous to the Program with price as the primary factor;
- Award fixed-price contract; and
- Monitor the ensuing contract on behalf of the CE as required in 2 CFR 200 if specified in the original solicitation and resulting contract.

NOTE: An agent publishing a solicitation on behalf of a CE may not respond to such solicitation, as this would constitute an unfair advantage and be in violation of Federal procurement requirements.

7243 Third-Party Entities

Third-Party entities include State procurement agency agreements, inter-agency agreements, group purchasing organizations, group buying organizations, and third-party vendors.

7243.1 State Procurement Agency Agreements

This is an inter-governmental agreement with the State, which may include public, private, and non-profit entities. This agreement allows CEs to purchase from the State's contracted sources. When competitive procurement methods are conducted by the CE, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

The CE may consider a State agency's procurement as one source for procurement. For example, if the purchase is under $10,000, the CE may purchase directly from the State's procured sources as long as the prices are reasonable and the CE equitably distributes all procurements among all qualified suppliers available. If the procurement is less than $50,000, the CE may obtain a price or rate quotation from the State's procured sources, among other qualified sources available. For procurements of $50,000 or over, a CE must first conduct a cost analysis and then develop a solicitation (sealed bid or competitive proposal). The CE may use vendors and prices from the State's contract as one source. Remember, it is not the State procurement agency agreement that is the competitive procurement; rather, this agreement gives the CE further options of sources to utilize to ensure full and open competition.

7243.2 Inter-agency Agreements

These agreements may include public, private, and non-profit entities formed to procure goods and services together. When the CE conducts competitive procurement methods, this agreement may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

CEs purchasing through an inter-agency agreement includes entering into the inter-agency agreement to competitively procure common goods and services, then developing and publishing solicitations through sealed bids/competitive proposals. These solicitations must include procurement procedures and include the terms, conditions, required contract provisions, as applicable, and all products, descriptions, specifications, and estimated quantities. Further, each CE is responsible for monitoring contractor performance to ensure compliance with all contract provisions.

7243.3 Group Purchasing Organizations, Buying Organizations, and Third-Party Vendors

Collectively referred to here as GPOs, these often include CEs and non-CEs (entities that do not participate in a child nutrition program) such as public and private schools, hospitals, universities, law enforcement, public works, etc. who join a third-party company or service provider. GPOs could be private for-profit or nonprofit entities. A GPO is typically structured in a way that may include a membership fee paid by member users, who are then granted access to the GPO price list of products and services. When competitive procurement methods are conducted by the CE, GPO price lists may be one source of prices when using small purchase procedures, sealed bids, or competitive proposals, as applicable.

The business model of a GPO may include a variety of services, including facilitating procurement for members/member agencies and procuring products and services from an external source, such as an affiliated or unaffiliated full-line distributor. Membership involves paying a fee in addition to the price of products and services purchased. However, paying a fee does not constitute compliance with the competitive procurement process that CEs are required to conduct when procuring products and services.

A CE may pay a membership fee to multiple GPOs, and when using micro or small purchase procedures, may consider the price for products from GPOs as one source among an adequate number of qualified sources. For the procurement of goods and services greater than $50,000, CEs must publish sealed bids or competitive proposals, to which GPOs may respond, provided the GPO has not drafted such solicitations. Likewise, responses to bids/proposals must be evaluated by the CE to determine the lowest responsible and responsive bidder/offeror with price as the primary factor.

Purchasing goods and services from a GPO without conducting a compliant procurement process is limited to the micro-purchase threshold. Under the micro-purchase threshold, single transactions are at or below $10,000, prices would be reasonable, and purchases would be equitably distributed among qualified suppliers.

7250 Conflicts of Interest

Organizations participating in the CACFP are required to disclose and identify related party transactions; less-than-arms-length transactions; and ownership interest in equipment, supplies, vehicles and facilities, or disclose any other information that inhibits TDA from making an informed assessment of whether a particular cost is allowable.

A less-than-arms-length transaction is one under which one party to the transaction is able to control or substantially influence the actions of the other(s). Such transactions include, but are not limited to, those between divisions of an organization; organizations under common control through common officers, directors, or members; and an organization and a director, trustee, officer, key employee of the organization, or immediate family, either directly or through corporations, trusts, or similar arrangements in which a controlling interest is held. See also Arms-length bargaining and related party transaction in Exhibit A of *FNS Instruction 796-2, Financial Management – CACFP*.

Related parties include, but are not limited to:

- Brothers/sisters
- Spouse
- Parents/grandparents
- Children/grandchildren
- Half-brothers/sisters
- Domestic partners and parents thereof
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship
- Affiliates of the organization
- Principal owners of the organization and immediate members of their families
- Management of the organization and immediate members of their families

A CE cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services.

No officer, agent, consultant, contractor, volunteer, or other employee of a CE or sponsored site/provider may engage in any activity that causes or could cause a conflict of interest in the operation of the CACFP, including but not limited to:

- Renting or leasing from a firm in which any officer, agent, consultant, or employee (or relative) has an interest, and this related party transaction has not been fully disclosed.
- Soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, sites, or parties to subcontracts.
- Soliciting donations or fees from the CE's sites/providers.
- Asking sponsored sites/providers to engage in any kind of business on the CE's behalf.
- For day care homes, participating as a provider while actively engaged in the day-to-day operations of its sponsorship (board members are not considered "actively" engaged in the day-to-day operations).

A CE must establish and maintain a written code of standards of conduct that govern the performance of its officers, employees, or agents. This written code must:

- Prohibit owners, members, officers, or employees from soliciting gifts, travel packages, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

- Prohibit owners, members, officers, or employees from accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- Prohibit an owner, member, officer, or employee from participating in the selection, award, and administration of any contract to which an entity or certain persons connected to them have a financial interest.
- Set standards when financial interest is not substantial or the gift is an unsolicited item of nominal value, and therefore may be acceptable.
- Provide for disciplinary actions in the event of violation.

Additionally, sponsors of child care centers, adult day care centers, or At-risk centers may require a site to have a written code of standards of conduct as part of corrective action if needed.

All less-than-arms-length transactions must be disclosed to TDA and require specific prior written approval before the cost is incurred and included in the budget.

7260 Procurement Documentation and Record-Keeping Requirements

Procurement documentation and records are subject to the same record-keeping requirements as all other CACFP-related records (Refer to Section 4200-4400 of this Handbook for additional guidance).

7261 Procurement Procedures

As referenced in the above sections, CEs must have procurement procedures in place that provide the steps and actions that will be taken to properly procure goods and services in accordance with Program requirements. The level of detail should be reflective of the CE's operations.

The procedures must provide that proposed procurement actions will be reviewed by the CE's officials to avoid the purchase of unnecessary or duplicative items, and where appropriate, an analysis shall be made of lease versus purchase alternatives to determine which approach would be the most economical. The procedures must encompass each procurement method discussed in this handbook. The procedures must also include the following elements:

1. Forecasting and scheduling of purchases - Plan procurements for the Program Year (PY) by evaluating resources, projecting expenses, and determining needs prior to initiating a procurement process by assessing:
    - Current approach, such as meal preparation (self-preparation, central kitchen, need for a Food Service Management Company (FSMC)).
    - Storage capacity.
    - Equipment.

- Resources, such as income/revenue and staff.
- Other operational needs.

2. Development of technical requirements – Procedures must include a step for developing clear and accurate technical requirements for the material, product, or service to be procured.
3. Selection of the procurement method – Beyond the cost of a single transaction, CEs must document any other factors, such as distance, storage, etc., and decision steps that will be used to determine the method. Include steps to:

- Develop solicitations.
    - The description and scope (specifications) must be in line with what is being procured.
    - Must be clearly stated so that bidders will understand and can be responsive to the need.
    - Must identify all of the requirements that bidders must fulfill so that changes do not need to be made to a contract after it is awarded, including identification of prohibited expenditures.
    - Must include evaluation and scoring factors, with cost as the primary factor.
    - Must not contain features which unduly restrict competition.
- Advertise.
    - Content must be sufficient to identify:
        - General nature of the goods or services to be procured.
        - Method of procurement to be used.
        - How a bidder can obtain the solicitation or more information.
        - The due date for responses to the solicitation.
    - Methods of advertisement must allow for full and open competition.
        - State, regional, or nation-wide newspapers.
        - Trade periodicals.
        - Internet sites.
        - Direct mailings (small purchase procurement method only).
- Ensure small and minority businesses and women's business enterprises are utilized when possible.
    - Include qualified small and minority businesses and women's business enterprises on solicitation lists.
    - Ensure that small and minority businesses and women's business enterprises are solicited whenever they are potential resources.

    - When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business and women's business enterprises' participation.
    - Where the requirement permits, establish delivery schedules which will encourage participation of small and minority businesses and women's business enterprises.
    - Use the services of the Small Business Administration and the Minority Business Enterprise of the Department of Commerce.
    - If subcontracts are to be let, require the prime contractor to take the affirmative steps above.

4. Evaluation of proposals/offers:
    - Determine if bids were received from responsible and responsive contractors.
        - "Responsive" means contractor's products or services meet the specifications.
        - "Responsible" means a contractor that can and will successfully fulfill the terms and conditions of the proposed procurement. Attributes of a responsible contractor include the following:
            - Integrity.
            - Compliance with public policy.
            - Record of past performance.
            - Financial and technical resources.
    - Must use cost as the primary factor.
    - Must be evaluated without consideration of any included unallowable cost provisions.
5. Award and management of the contract:
    - Must be awarded to the lowest responsive and responsible bidder, or the responsible firm whose proposal is most advantageous to the Program with price as the primary factor.
        - Legally ensures commitment.
        - Provides record of the deal.
        - Ensures contractor performs in accordance with the terms, conditions, and specifications of the contract by verifying:
            - The quantity and quality of the goods and services requested.
            - The goods and services were received on time.
            - The prices charged for the goods and services are the prices bid and within budget.
6. Protest procedures: provide dispute resolution for any action that diminishes open and free competition
    - Supply copies of dispute resolution procedures to all potential bidders.

    - Include name and address of person who will make a determination whether or not the protest should be sustained.
- Disclose information regarding all protests to TDA.

7262 Contract Records

When a contract is continued or renewed annually or recorded at other intervals, the three-year retention period for the records of the contract period starts on the date the final payment is recorded in connection with the final renewal of the contract and not the initial contract execution date. The three-year record retention period does not begin until the final contract renewal period has expired and/or the final payment is recorded, whichever occurs first.

Actions such as bid protests, litigation, and audits may result in an extension of the three-year record retention period. In such cases, the records must be retained until the completion of the action and resolution of all issues arising from it or the expiration of the regular three-year period, whichever occurs latest.

Examples of such records are:

- A written rationale for the method of procurement
    - Procurement procedures
    - Justification for use of a method that does not follow the CE's written procedures
- A copy of the Request for Proposal or the Invitation for Bid
- The bidding and negotiation history
- The basis for contractor selection
    - Criteria used
    - Evaluation documentation
        - Including justification for selection of a contractor that was not the lowest bidder and copy of TDA approval of selection, if applicable
- Approval from TDA to support a lack of competition when competitive bids or offers are not obtained
- The terms and conditions of the contract
- Any changes to the contract and negotiation history
- Billing and payment records
    - Invoices
    - Receipts
        - Handwritten receipts, such as those from Farmers' Markets are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- A history of any contractor claims

- A history of any contractor breaches

If procurement records generated during the performance of the contract award do not demonstrate compliance with applicable procurement requirements, the following penalties may occur:

- Disallowance of costs.
- Termination of contract.
- Request CE to issue a "stop work" order.
- Placement into the serious deficiency process.
- Other actions deemed appropriate.

7300 Maintaining a Nonprofit Food Service Account

The information provided throughout this section comes from 2 Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 48 CFR Part 31, Contract Cost Principles and Procedures, 7 CFR Part 226, Child and Adult Care Food Program and FNS Instruction 796-2, Financial Management – CACFP and is not all inclusive of all information contained in those documents. CEs are responsible for understanding and complying with the above mentioned guidance. CEs must operate a nonprofit food service principally for the benefit of enrolled participants and must document all aspects of the food service operation.

Sponsors of child care centers, At-Risk centers, and adult day care centers must ensure their sites operate a nonprofit food service. **Day care home providers are not required to maintain a nonprofit food service account.**

Nonprofit status does not require that the CE or site operate at a break-even or loss. Nonprofit food service status is determined by the scope of the food service activities and the use of nonprofit food service revenues through:

1. Identifying all nonprofit food service revenues;
2. Deducting allowable net expenses;
3. Identifying the excess of all nonprofit food service revenues over nonprofit food service expenses; and
4. Verifying that any excess of revenues over expenses is retained and used only in the nonprofit food service operation.

Food service revenue includes:

- CACFP reimbursement.
- Income to the Program, such as:
  - Funding from other government sources
  - Cash donations specifically given for food service

  - Grants from other organizations or individuals
  - All interest earned on CACFP reimbursements or advances
- All other funds used or restricted for use in the nonprofit food service.

7310 Program Revenue

7311 Meal Reimbursement

The primary source of revenue for the food service account is meal reimbursement for eligible meals served and claimed. A CE's claim is its actual participation report submitted for the purpose of receiving reimbursement for costs associated with food service. Meal reimbursements are based on the site type and meal type.

7312 Administrative Reimbursement

Sponsors of sites/providers primarily act as a pass-through entity for federal funding, disbursing meal reimbursement from TDA to the sites they sponsor within five days of receipt. However, sponsors may retain a portion of reimbursement, based on an approved management plan, to account for allowable net administrative expenses needed for planning, organizing, and managing the Program.

7312.1 Administrative Reimbursement for Sponsors of Centers/Sites

Sponsors of child care centers, adult day care centers, and At-Risk sites account for administrative expenses by withholding an amount from a site's monthly claims:

- Money withheld must align **with actual allowable administrative costs** incurred by the sponsor in supporting the operations of the Program; **AND**
- The amount withheld is **not to exceed 15% of the total reimbursement received**, with the amount withheld to be stipulated in the Permanent Agreement between the sponsor and the site. The sponsor must maintain documentation to support the percentage of CACFP reimbursement withheld.

By the end of the Program Year, any funds withheld by sponsors in excess of 15% of the total annual claims received OR in excess of actual documented administrative expenses must be distributed to its sites.

Sponsors of Affiliated Sites

Sponsors of affiliated sites and centers, who account for all operational costs incurred at the site level, are not necessarily disbursing meal claims to the individual site, as that site is legally affiliated with the sponsor. Nevertheless, a sponsor of affiliated sites must also only withhold an amount of reimbursement not to exceed 15% of each site's total CACFP reimbursement to pay for actual allowable administrative costs. Any remaining reimbursement must be used on operational costs to enhance the quality of the food service operation at the site.

7312.2 Administrative Reimbursement for Sponsors of Day Care Home Providers

Sponsors of day care homes will receive administrative reimbursement for the allowable expenses they incur while sponsoring the CACFP activities of their providers. CEs must report all administrative expenses with the claim each month.

USDA determines administrative reimbursement by annually adjusting the following base administrative rates, applied per provider per month, set forth in 7 CFR 226 as follows:

- Initial 50 day care homes, 42 dollars;
- Next 150 day care homes, 32 dollars;
- Next 800 day care homes, 25 dollars;
- Additional day care homes, 22 dollars

Annual adjusted rates for each range listed above can be found on the SquareMeals CACFP Reimbursement Rates page located at: https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Reimbursement-Rates

Per regulation, **a maximum 10%** of administrative funds received during the Program Year can carry over from one program year to the next if approved by TDA. Based on the total administrative costs reported on the CE's monthly claims for reimbursement and on the total administrative payments the CE receives in a program year, TDA will annually send each CE a close-out letter documenting the amount of administrative reimbursement remaining, the total that can be carried over (if applicable) and total that must be returned to TDA (if applicable).

CEs will use this information to amend the carry-over amount in their current budget. The close-out letter will be sent around December 1st of each program year to ensure that all claims for reimbursement for the previous program year have been received and processed.

Example:

- Administrative expenses documented in monthly claims during the year total $100,000.
- Administrative payments for the Program Year total $150,000, yielding a surplus of $50,000.
- CE may carry over up to $15,000 (10% of total administrative reimbursement) into the next Program Year.
- CE must return $35,000 to TDA ($50,000 surplus - $15,000 allowed carryover)
- The CE's PY budget shows a carryover into the next year of $25,000. An amended budget is required to reflect $15,000.

Any funds carried over that are not spent during the next program year must be returned to TDA.

Note: CEs are not required to carry over administrative funds. At the end of the program year, any unexpended funds eligible for carryover may be returned to TDA at the CE's option.

7313 Program Income

In addition to meal reimbursements, food service revenue can come from other sources of Program income. Program income is the gross income earned from activities supported by the Program, and includes, but is not limited to:

- Participants' payments for meals at sites operating pricing programs.
- Payments received from food sales to adults when the cost of the adult meal is not deducted from total operating costs.
- Proceeds from the disposition of real and nonexpendable personal property acquired with Program funds.
- Royalties and other income earned from the sale or licensing of copyrighted work developed under the Program.
- Revenue from the sale of food grown in a CACFP-funded garden.

Additionally, the Program may receive income from other sources that are applied to Program operations. Examples include:

- Cash donations specifically earmarked for use in the Program's food service.
- Interest earned on advance administrative funds, or meal service and site pass-through funds that can be retained by the CE.
- Funds received from the sale of unused or unneeded supplies purchased with Program funds.

All income to the Program must be retained and **used only in the Program food service**. Income to the program may not be used to pay unallowable costs in the CACFP such as:

- Incentives and bonuses provided to sites to participate in the program.
- Training related to, but not required for program participation, such as training to maintain licensing/certification requirements.

The receipt of all funds related to the CACFP, including grants, donations, and loans, regardless of their source, must be documented in writing.

All loans must satisfy TDA financial management system requirements, including, but not limited to, the following criteria:

- A written agreement specifying the terms and conditions of the loan, including a repayment schedule, must be signed by both parties.
- Loans may not be entered into retroactively.

  EXAMPLE: A donation or grant may not be converted to a loan agreement after the fact.

- Interest accrued on the loan is not an allowable program cost.

7314 Non-Cash Donations

Donations, such as food, building use, services, and labor are not considered Program income. However, a CE must maintain and make available documentation of each donation to demonstrate how it manages the Program on the CACFP reimbursement. CEs that submit a budget that does not reflect an acceptable level of food costs to support the number and type of meals it intends to claim should submit this documentation with the application to explain the discrepancy.

7320 Program Expenses Overview

Specific allowable and unallowable program costs are covered in more detail in *Specific Program Costs* below. This section is designed to show the effect of allowable operating and administrative expenses on the nonprofit food service account.

7321 Operating Expenses

Operating expenses are allowable expenses for serving meals to eligible participants.

Examples of operating costs include:

- Food;
- Food service labor;
- Nonfood supplies; and
- Food service equipment.

All sites/centers and sponsors of centers, if applicable, must compute the cost of food used in the nonprofit food service. FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program* Exhibit B provides guidance on computing the cost of food, food inventory, and food purchases.

NOTE: Sponsors of day care homes generally do not have operating costs, as the operating costs are absorbed by the provider; providers are not required to keep records of their operating costs for CACFP activities.

7322 Administrative Expenses

As noted above, administrative expenses are limited to an organization's allowable expenses for planning, organizing, and managing the Program. Examples of administrative costs include salaries, wages, fringe benefits, etc. to accomplish the following:

- Reviewing and submitting site or provider applications to TDA for Program participation approval;
- Reviewing and approving CACFP Meal Benefit Income Eligibility Forms;
- Providing training for CE staff, sponsored sites, or DCH providers; and

- Conducting monitoring visits to sponsored sites or day care homes.

7330 Excess funds (Unused Reimbursement)

Sponsors of sites/providers, if properly disbursing meal payments to their sites and adhering to their budget's administrative expenses, should not have any unallowable excess reimbursement in their nonprofit food service account. As noted in the *Administrative Reimbursement* section above:

- Sponsors of centers/sites must distribute to their sponsored sites any excess reimbursement withheld above actual administrative expenses to their sponsored sites, or if administrative expenses exceeded 15% of total reimbursement, any amount withheld over 15%.
- Sponsors of day care home providers may carry over 10% of total annual administrative reimbursement but must spend that carryover amount in the next Program Year.

However, independent center CEs, sponsored unaffiliated centers/sites, and any sponsor that does not pass reimbursement to its sites (for example, a sponsor that incurs all financial costs for operation at the site) must ensure that CACFP reimbursement does not exceed net costs.[9] Net costs are total costs minus Program income.

EXAMPLE: A CE's reimbursement is $10,000 per year. Records support total costs of $11,000 and total additional Program income of $1,000. Since the net costs ($11,000 - $1000) and CACFP payments are the same, the CE has shown that the program is nonprofit.

TDA allows independent centers, sites, and any CE that does not pass reimbursement to their sponsored sites to maintain a maximum of three months' average expenditures in the nonprofit food service account at one time. If an independent center CE approaches the maximum amount allowed in the nonprofit food service account, it should use the *Excess Net Cash Resources Plan for Child and Adult Care Food Program*, available on the CACFP Administration/Forms page of SquareMeals to develop a plan to spend down the excess amount. Sponsors of unaffiliated sites may require their centers/sites to use this form as well if their unused reimbursement is approaching or exceeds three months' average expenditures.

Note that unused reimbursement must be spent on allowable program costs that primarily benefit the participants of the Program. Operators should prioritize costs that improve food quality or overall food service. Any increase to administrative budget line items will be analyzed by TDA to ensure that the costs are still reasonable, necessary, and allocable to the Program prior to approval (see *Financial Administration of the Program* below).

7400 Financial Administration of the Program

This section generally covers identifying the costs necessary to administer the program, budgeting requirements prior to the beginning of the Program Year, common budget line items associated with administration of the Program, and allowable and unallowable uses of Program funds.

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[9] Day care home providers are not required to maintain a non-profit food service account.

7410 Allowable costs

A cost may be allowable in the CACFP if it is determined to be necessary, reasonable, and allocable to the program.

Necessary costs are those that represent an activity or function that is generally recognized as necessary for the operation of the Program. The cost must be essential to fulfill the regulatory requirements for proper and efficient administration of the Program.

Reasonable costs are those that represent an amount that does not exceed what a prudent person would pay under the same circumstances.

Allowable costs can be either direct or indirect costs. Direct costs are those costs that can be specifically identified as costs used solely for the nonprofit food service. Indirect costs are those costs that are incurred for a common purpose within the organization, but a portion cannot be easily allocated to the nonprofit food service. If the CE will be claiming indirect costs, the rate must be part of their cost allocation plan. A cost allocation plan is a written explanation of how costs are classified.

CEs and sponsored sites must account for all nonprofit food service costs using generally accepted accounting principles (GAAP). CEs and sponsored sites are responsible for accounting for costs accurately and for maintaining records to demonstrate that costs claimed have been paid, are allowable to the program, and comply with financial management requirements found in FNS Instruction 796-2, *Financial Management – CACFP* located at http://www.squaremeals.org, under:

- CACFP Administration & Forms;
- CACFP Policy & Handbook; and
- F&N Resources, tools and links.

Some allowable costs require prior approval. Levels of required approval, such as specific prior written approval (SPWA) and USDA Food and Nutrition Service (FNS) approval are described in the FNS Instruction 796-2, *Financial Management – CACFP*a s well as the Budget and its instructions.

Costs that require specific prior written approval from TDA or the FNS Regional Office must be submitted in writing prior to the CE incurring the cost or including the cost in its budget. To request specific prior written approval or FNS Regional Office approval, submit the request, with all supporting documentation to justify the cost, to TDA using one of the following methods:

- TX-UNPS SPWA Request Module; or
- Email to: CACFP.Bops@TexasAgriculture.gov; or
- Regular or certified mail, Attn: CACFP Applications, to:

  1700 North Congress Avenue
  Austin, Texas 78701

- Overnight delivery, Attn: CACFP Applications, to:

  P.O. Box 12847
  Austin, Texas 78711

Regardless of the method of submission, ensure the name and CE ID is included.

NOTE: If the specific prior written approval is for a contractual service/item, then an SPWA is not required every year that the contract is in place. During annual budget submittal, the CE will be able to note within the system that the current item has already been approved. If, however, the SPWA is for a monthly service contract that must be renewed annually, the CE will need to submit an SPWA for that service each year.

7420 Unallowable costs

Unallowable costs may be expressly unallowable, directly associated with expressly unallowable costs, or may be unallowable through the actions or inactions of the CE.

- Expressly unallowable costs are those that are prohibited by FNS Instruction 796-2, applicable laws, or regulations.
- Directly associated unallowable costs are the costs that result from the CE incurring expressly unallowable costs, such as the cost of supplies used by a CE engaging in prohibited lobbying activities.
- Costs made unallowable by the action or inaction of the CE include costs that might otherwise be allowable, such as approved labor costs for which the CE failed to maintain the required documentation to support the costs.

7430 Budgeting

For budgeting purposes, the cost of an expense may be estimated; however, the nonprofit food service accounting system and the CE's supporting documentation must show only actual costs. In addition, costs must be necessary and reasonable to the operation of the nonprofit food service.

Budgeted costs are separated by operating expenses and administrative expenses as described above. TDA must approve a CE's administrative and operating costs, including labor costs, for the CE to use CACFP reimbursements and income for those costs. Note that the administrative budget submitted by a sponsoring organization of centers must demonstrate that the administrative costs to be charged to the Program do not exceed 15 percent of the meal reimbursements estimated for the budget year.

Refer to Section 2000, *Eligibility and Application Requirements*, for specific instructions and guidance related to submitting an annual budget.

The *Budget* contains the following cost categories:

NOTE: The information below only includes those cost categories from FNS Instruction 796-2, *Financial Management – CACFP* that are potentially allowable and not determined expressly unallowable by USDA. CEs are responsible for using the instruction for any costs not discussed below to determine if those costs are unallowable.

Labor

This includes operational and administrative labor. See FNS Instruction 796-2, #23 for all the requirements for labor costs, including allowable and unallowable costs, documentation requirements, and specific levels of approval. Labor costs include costs for employees. Labor costs for independent contractors would be entered in either purchased services or contracting organization costs (see Legal expenses and other professional services).

To determine whether the cost is for an employee or independent contractor visit the IRS website at https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee?_ga=1.74484946.1747892112.1462550897

Reminder: Purchased services/professional services (such as an independent contractor) must be properly procured.

Food

Food costs include the net cost of food used or the net cost of delivered meals, not the cost of all food purchased.

Facilities and Space

- Health and safety standards
  - Costs to meet regulatory Program requirements for inspections of at-risk afterschool care centers and outside school hours care centers.

UNALLOWABLE: Costs to bring owned or rented spaces into compliance with other State and local requirements.

- Rearrangement and alteration
  - The cost necessary for efficient and effective Program operation but do not result in capital improvements. See FNS Instruction 796-2, #17 (3).
  - This cost requires specific prior written approval.

- Rental costs
  - The cost of space used for Program purposes and that does not exceed the rental costs of comparable space and facilities for privately owned buildings in the same

locality. Related party transactions are subject to additional cost limitations. See FNS Instruction 796-2, #36 d(3) for further information.

- Utilities
  - See *Purchased Services* below.
- Other space costs
  - The cost of special lease arrangements, costs incurred during periods of non-occupancy; and a single base such as square footage to allocate maintenance and operation costs between Program and non-Program activities when these costs are not included in rent or other space charges. See FNS Instruction 796-2, #17 (d).
  - These costs require specific prior written approval.

Supplies and Equipment

- Materials and supplies
  - The cost of durable supplies (cell phones, etc.) and expendable materials and supplies (pens, paper, ink cartridges, etc.) that do not meet the definition of equipment. **NOTE:** Computers under $10,000 are considered supplies per federal regulation.
  - The cost of materials and supplies related to wellness efforts, including the promotion of physical activity and limiting the use of electronic media, may be an allowable cost if the CE or site has determined the free materials provided by USDA are not sufficient and if the materials must also include information on how nutritious meals promote wellness.
    - CEs must ensure the costs meet the FNS Instruction requirements and that the meal service quality is not jeopardized by using Program funds towards wellness efforts. **Materials and supplies used by the CE and individuals for non-Program use are unallowable.**
    - See *Media Costs* below for allowability of publication and reproduction of wellness materials.
  - The cost of supplies, such as seeds, fertilizer, watering cans, rakes, etc., to grow food that will be used as part of a reimbursable meal and for nutritional education activities.
  - Costs related to the purchase of potable water or water filtration equipment – see *Other Costs* for additional guidance.

- Rental costs
  - The cost of vehicles and equipment owned by a third party or parties that are leased by the CE for Program purposes when properly procured and a bona fide arms-length written rental agreement exists. Related party transactions and other factors are subject to additional requirements and cost limitations. See FNS Instruction 796-2, #36 for further information.

Purchased Services

- The cost of services, excluding professional services, required for Program purposes and not included in other cost categories, such as maintenance, repair or upkeep of food service equipment that neither adds to its permanent value or prolongs its expected useful life but keeps it in an efficient operating condition, provided the cost was incurred in arms-length transactions.
- The cost of utilities, purchased security and janitorial services, etc. not included in labor.
- With specific prior written approval, the cost of all services obtained through less-than-arms-length transactions, maintenance, and service repair contracts on Program equipment, and all other purchased service costs needed for Program operations.

UNALLOWABLE: Costs that prolong expected useful life of equipment or facilities, any share of purchased service costs incurred for non-Program purposes, and less-than-arms-length transactions that are not fully disclosed.

Financial Costs

- Accounting costs
  - The cost of establishing and maintaining accounting and other information systems required for the management of CACFP. Costs incurred to meet or maintain the organization's incorporation or nonprofit status are unallowable.
- Bonding costs
  - The cost of the performance bond required by TDA for new sponsoring organizations and the cost of premiums of bonds covering employees that handle CACFP funds.

UNALLOWABLE: The cost of bonding for general administrative staff, officers, or individuals not responsible for handling CACFP funds is unallowable.

- Other financial costs
  - The cost of bank service fees for Program accounts, including the Program share of fees for commingled accounts, for check printing, and routine account servicing charges.
  - With specific prior written approval, stop payment charges for site advance and reimbursement payments and other disbursements; Program account reconciliation and analysis fees, including the allocated share for commingled accounts; interest incurred on organizational debt used to acquire or replace equipment or other property or make allowable improvements. See FNS Instruction 796-2 #22 for more information and the list of unallowable financial costs.

Media Costs

- Advertising and public relations costs
    - The cost of advertising media to solicit bids for
        - The procurement of Program goods and services;
        - Recruitment of personnel for the Program;
        - Disposal of scrap or surplus materials acquired in the performance of the Program; and
        - With prior written approval, the advertising and public relations costs for pamphlets, news releases and other information services to
            - Inform individuals, groups or the general public about the CACFP; or
            - Increase a CE's CACFP participation.

The costs of fundraising for the purpose of meeting Program objectives are allowable with FNS Regional Office approval.

UNALLOWABLE: Advertising and public relations costs to advertise or solicit non-program-related business.

- Communications
    - The cost of supplies, equipment and services used for Program operations, such as cellular phone, data plans, mobile hotspots, air cards, and internet charges.
    - Costs in this category require specific prior written approval.

UNALLOWABLE: Supplies, equipment, and services in this category that are transferred to or owned by officers, trustees, directors, consultants, or employees, and supplies and services used for non-Program purposes regardless of ownership.

- Publication, printing, and reproduction
    - The cost for in-house and outside publication and printing not included in other cost categories, such as publication, printing, and reproduction of materials related solely to the Program or the allocable share of direct costs when both Program and non-Program purposes are benefited.
    - The cost of publication, printing, and reproduction of materials related to wellness efforts, if the materials were provided by USDA or were purchased/produced in accordance with *Supplies and Materials* above.

UNALLOWABLE: Publication, printing, and reproduction costs included in other cost categories and costs for non-Program related purposes.

Contracting Organization Costs

- Administrative appeal costs

- The cost for appeals pursuant to the CACFP regulations and that include in-house or properly procured private counsel; professional services such as an accountant or consultant, administrative or clerical services; and costs of directly related services provided by the CE's employees, officers, and trustees not otherwise claimed as labor. Costs for civil, legal, or other proceedings are unallowable, including the costs of pursuing a judicial review of a decision rendered by a hearing official in a CACFP hearing.

- Legal expenses and other professional services
  - The sponsoring organization's cost to pursue administrative or judicial recovery of funds due from sponsored sites when the costs are reasonable in relation to (a) the amount of funds due; and (b) the amount of the funds that can reasonably be expected to be recovered.
  - The CE's cost for services performed by individuals who are not officers, employees, or members of the CE when (a) the services are required in the administration of the Program; (b) the costs are reasonable in relation to the services provided; (c) the services have been properly procured; (d) the terms of the contractual arrangement are adequate for the services required; and (e) the costs are not contingent upon recovery of Program funds.

UNALLOWABLE: The costs to maintain legal staff to discharge general responsibilities, and the costs incurred in connection with organization and reorganization.

  - The cost of water testing services - see "other costs" for additional guidance.
  - These costs require specific prior written approval.

- Meetings and conferences
  - The cost for travel and registration fees to attend CACFP Federal, State, local, national, or regional conferences. Travel and registration fees to attend meetings or conferences for which CACFP is only a portion of a larger child and adult care-related agenda require specific prior written approval.

- Membership, subscriptions, and professional organization activities
  - The cost for membership in civic, business, technical, and professional organizations, and subscriptions to professional and technical periodicals related to the Program.
    - With specific prior written approval of Food and Nutrition Service Regional Office (FNSRO), the cost of public or nonprofit organization memberships in civic or community organizations.
    - With specific prior written approval, membership in discount warehouse buying clubs when the membership will be used strictly for the CE and will save the Program money.

UNALLOWABLE: Costs of individual memberships in professional organizations, for-profit organizations memberships in civic or community organizations, all other costs of membership in allowable organizations and individual or personal subscriptions.

- Participant training and other participant support costs
    - The cost of training, including materials and supplies, meals, lodging, travel, speaker fees, child care services, and substitute employees to cover Program duties for employees required to attend training. These costs can be operating or administrative; reference FNS Instruction 796-2 #30 for specifics.

UNALLOWABLE: Motivational speakers, social events, entertainment, flowers, etc.

- Travel
    - Reference FNS Instruction 796-2, #39 for the various allowable forms of Program-related travel costs as well as travel costs that are unallowable.

Unaffiliated Facility or Day Care Home Costs (Sponsors Only)

This includes the total anticipated annual CACFP reimbursement that will be earned by unaffiliated sites or day care homes.

Other Costs

This includes any other costs associated with the nonprofit food service, including indirect costs.

- Contribution and donation costs
    - The cost required to make goods or services donated to the institution usable for the Program.
    - These costs require specific prior written approval.

UNALLOWABLE: Cash and the value of noncash contributions and donations made by the CE to others.

- Criminal and civil proceedings, claims, and appeals
    - This does not include administrative appeal costs as detailed above. See FNS Instruction 796-2, #11 for specifics related to these costs.
    - These costs require FNSRO approval.
- Employee morale, health, and welfare costs and credits
    - These costs may be allowable when not included in labor costs as part of the organization’s written compensation policy. See FNS Instruction 796-2, # 14 for specifics related to these costs.
    - These costs require specific prior written approval.
- Insurance

- The cost of:

  (1) insurance required by TDA (currently TDA does not have any insurance requirements),

  (2) with specific prior written approval:

    (a) cost of other insurance maintained by the CE in connection with the general activities of the Program;

    (b) cost of insurance or contributions to any self-insurance reserve covering the risk, loss, or damage to Federal Government property to the extent that the CE is liable for such loss or damage;

    (c) cost of insuring the lives of Directors and officers provided that

      (i) the insurance policy actually provides liability coverage related to the CACFP; and

      (ii) if the insurance policy also provides coverage for non-CACFP liability, the CACFP share of the cost is properly allocated;

    (d) contributions to a reserve for self-insurance to the extent that the reserve meets State insurance requirements and the type of coverage, extent of coverage and the rates and premiums would have been allowed had insurance been purchased from a commercial provider to cover the risks.

UNALLOWABLE: Insurance costs for non-Program activities and the cost of actual losses that could have been covered by permissible insurance through the purchase of insurance or an approved self-insurance plan.

- Lobbying and Advocacy Costs
  - The cost of:

    (1) responding to a documented request made by a member of Congress or the State legislature, a legislative body or subdivision or a cognizant staff member thereof for a technical or factual presentation of information on a topic directly related to the performance of the Program;

    (2) travel lodging and meal costs for individuals offering testimony at a regularly scheduled congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing;

    (3) lobbying to influence State legislation that would directly reduce the CE's Program costs or avoid a material impairment of the CE's authority or ability to fulfill Program requirements; and

    (4) legislative liaison activities when the activities are not carried on or in support of, or in preparation for prohibited lobbying activities.
  - See FNS Instruction 796-2, #25 for the list of unallowable costs as well as disclosure requirements.

- Management Studies
  - The cost of studies directly related to the Program that are performed by entities other than the CE itself.
  - These costs require specific prior written approval.

UNALLOWABLE: Costs for studies conducted by the organization's officers, employees, or family member, thereof, and the cost of studies for non-Program purposes.

- Proposal costs
  - The cost of preparing proposal submissions for FNS Child Nutrition Program grants or projects.
  - These costs require specific prior written approval.

UNALLOWABLE: The cost of preparing applications in other FNS Programs or preparing all other grant applications and proposals.

- Records retention
  - The cost for supplies, storage, and maintenance of records necessary for Program administration.
- Taxes
  - The cost of taxes or payments in lieu of taxes that the CE is legally required to pay as a result of operating the Program.

UNALLOWABLE: Refer to FNS Instruction 796-2, #37 for the list of unallowable taxes.

- Water
  - The purchase of potable water, water testing, or equipment to filter water may be allowable costs to ensure potable water is available to Program participants. A requesting CE must submit documentation to demonstrate that a) it has sufficient funds, b) it is lacking in capital improvement funding, and c) the expense is necessary to carry out the mission of the Program.

7440 Depreciation and Direct Expensing

7441 Depreciation

Depreciation is the allocation of the cost of acquiring or materially improving a capital asset to all accounting periods (fiscal years) whose Program operations benefit from the CE's use of the asset. Capital assets include tangible property such as buildings, furniture, motor vehicles, and other equipment; and certain intangible property such as computer software. Land is a capital asset but can **never** be depreciated.

Depreciation is based on the asset's acquisition cost, expected useful life, the costs of improvements or alterations that materially increase the value or prolong its useful life, and the asset's depreciable cost.

Whether privately or publicly owned, buildings can be depreciated using 30-year straight-line or the depreciation method used and accepted for federal income tax reporting purposes. In addition, the acquisition cost upon which depreciation is based must exclude the value of land. Any other depreciation method requires specific prior written approval from TDA.

The organization may use either 15-year straight-line depreciation (five years for Automated Data Processing (ADP) equipment and vehicles) or the depreciation method used and accepted for federal income tax reporting purposes. Any other depreciation methods require specific prior written approval.
All depreciation charged to the program must be documented through depreciation records indicating the amount of depreciation taken each period and, when appropriate, prorated between program and non-program use.

7442 Direct Expensing

Direct expensing means charging a capital expenditure as a direct cost to the CE's nonprofit food service account at the time the items are purchased or improvements are made. Direct expensing requires specific prior written approval. See FNS Instruction 796-2, #13 & 16 for specifics related to these costs, including documentation requirements and unallowable costs.

7500 Documentation Requirements

TDA is able to observe a CE's daily operation of the CACFP only in the course of administrative reviews and audits. Therefore, TDA must rely on the records a CE keeps to determine compliance with CACFP standards, the amount of reimbursement to which the CE is entitled, and the CE's compliance with maintaining a non-profit food service account. If a CE's records do not support its eligibility or the eligibility of its sites or claims for reimbursement, the CE will be required to repay any amounts paid improperly.

Documentation requirements when including costs in the budget vary depending on the cost category. CEs and sites must reference FNS Instruction 796-2 for specific documentation requirements when requesting budget approval.

Examples of required documentation include:

Food cost records:

- Procurement documents, including bids and contracts;
- Purchase orders;
- Delivery receipts;
- Receipts;

    - Handwritten receipts, such as those from Farmers' Markets, are acceptable as long as they include the date of purchase, name of vendor/farmer, item cost, amount, and total cost
- Invoices;
- Canceled checks;
- Itemized cash receipts;
- Purchase records;
- Credits, returns, and rebates; and
- Inventory records.

If a CE or site purchases prepared meals from a vendor, such as a food service management company, the CE or site must keep delivery slips from each delivery. The CE or site must verify the count and counter-sign the delivery notice.

Documentation requirements for labor costs include:

- An established and maintained written compensation policy for every element of compensation charged to the nonprofit food service. At a minimum, the written compensation policy must identify: (a) rates of pay; (b) hours of work, including breaks and meal periods; and (c) the organization's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, awards, severance pay, and payroll tax withholding. The written compensation policy and approved budget must be in agreement for labor costs to be allowable.
- Time and attendance reports for all labor costs. These reports must identify the total time actually worked by the employee and not just the time spent on nonprofit food service activities. At a minimum, these reports must include (a) start time; (b) end time; and (c) absences.
- Time distribution reports if the employee works on more than one Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two or more indirect cost activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity. To establish the portion of costs that may be claimed as labor, a daily log or time distribution method must be used. Time distribution reports must be:
    - Completed by employee and accounts for the total activity for which the employee is compensated;
    - Prorated by the amount of time spent on nonprofit food service activities;
    - Completed for each employee separately;
    - An after-the-fact determination of the actual activity of each employee; and
    - In intervals no less than every 15 minutes.
    - In addition, the report for proprietary and nonprofit organizations must be compiled at least monthly and coincide with one or more pay periods. For public organization employees who work only in the nonprofit food service,

certifications completed at least every six months can be substituted for time distribution reports. Budget estimates and time studies of any kind are not acceptable documentation.

- In all cases, time and attendance and time distribution reports must be completed by the employee and signed and certified as true and correct by the employee and a responsible supervisor.
- Payroll records. At a minimum, a record for each employee containing:
    - Employee name;
    - Employee identification number;
    - Rate of pay;
    - Hours worked;
    - Benefits earned;
    - Any reductions or increases to the employee's base compensation, e.g., overtime pay, incentive award, etc.;
    - Gross pay;
    - Net pay;
    - Date of payment to employee;
    - Method of payment, i.e., check, cash, Electronic Funds Transfer (EFT); and
    - Verification that the employee has been paid, i.e., canceled checks or EFT deposit verification. For cash payments, an original signature certifying receipt of payment is required.

Documentation of mileage expenses include records of:

- The date of each trip.
- The driver's name.
- The mileage.
- The origin and destination of each trip.
- Parking costs.
- The reason for each trip.

CEs may develop their own travel form containing these elements.

Documentation of donations must include, at a minimum, (1) date of donation; (2) description of donation (i.e., non-fat milk); (3) amount of donation (i.e., gallon, half-gallon, pints).

Section 8000 Denials, Terminations, and Appeals

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made this Program Year will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection(s)
May 2025	Added suspension as an appealable action for day care home providers.	8321
	Added that a day care home sponsor's appeal procedures must inform providers that they have the opportunity to review the entire record on which a suspension or proposed termination is based, and to refute the bases for these actions in writing.	8322
11-28-2022	Consolidated content from Section 8000 of all four current CACFP Handbooks (Child Care Center, Day Care Homes, Adult Day Care, and At-Risk). This section is now identical in all four handbooks. Once consolidation of all sections is complete, TDA will release a new version of a single CACFP Handbook.	N/A
	Added missing item to list of TDA actions that CEs can appeal	8311
	Clarified that termination by mutual consent will only be granted if no issues have been identified as part of a risk assessment or closeout review	8212
	Updated the Texas Administrative Code citation for where to locate CACFP appeal procedures	8312
	Clarified that a DCH sponsor's appeal official has 60 days to issue a decision on a provider's appeal.	8322

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8000
Denials, Terminations, and Appeals

8100 Denials

TDA will deny an application and may terminate the Permanent Agreement if it is determined at any time that an applicant or Contracting Entity (CE):

- Submitted false information to TDA, including but not limited to, a determination that the CE has concealed a conviction for any activity that occurred during the 7 years preceding their application and that indicates a lack of business integrity. A lack of business integrity includes, but is not limited to, fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity.
- Failed to return an advance payment that exceeds the amount earned for serving approved meals or an unearned reimbursement.
- Failed to maintain required records.
- Claimed reimbursement for meals that did not meet meal pattern requirements.
- Claimed reimbursement from multiple programs for the same meal served to the same participant or claimed a participant more than once per individual meal in the CACFP (concurrent participation).
- Claimed reimbursement for meals that were not served to participating children or adults.
- Has an outstanding or unresolved single audit.
- Failed to comply with procurement standards or contract requirements.
- Has defrauded the CACFP.
- Failed to complete a corrective action, as detailed in a corrective action plan.
- Permitted a member of the organization's governing body, an agent, a consultant, or an employee who has been convicted of a fraudulent activity, to engage in any activity related to the administration of the CACFP.
- Has been determined to be seriously deficient in the ability to comply with requirements in the CACFP and placed on the National Disqualified List (NDL).
- Has been determined to be seriously deficient in the ability to comply with requirements in any other Child Nutrition Program (CNP) and been disqualified or excluded from participation in that Program.
- Sponsors the participation of a site or provider that was terminated for cause or declared seriously deficient and placed on the National Disqualified List or Texas Excluded SFSP List.
- Failed to submit a complete and correct application within the specified time.
- Failed to meet basic eligibility requirements as defined in Section 2000 of this handbook.
- Did not disburse payment to sponsored sites or providers according to the CE's management plan, and in compliance with requirements.

- Failed to submit a balanced and reasonable budget.
- Failed to operate the CACFP in conformance with the requirements specified in the application, including fiscal accountability demonstrated through compliance with financial management standards contained in FNS Instruction 796-2, *Financial Management – Child and Adult Care Food Program*.
- Used a Food Service Management Company (FSMC)/vendor that is in violation of health codes.
- Failed to properly train or monitor sponsored sites.
- Failed to perform financial and administrative responsibilities.
- Engaged in any other action affecting the CE's ability to administer the CACFP in accordance with requirements as stated in this handbook and the Permanent Agreement.

If an organization's application is denied, TDA will notify the organization, in writing, of the specific reason for denial. The organization has the right to appeal the denial of its application. See Item 8311 for other actions subject to appeal.

NOTE: If an organization's application is denied, it may reapply at any time.

8200 Terminations

8210 Contracting Entity Termination

The Permanent Agreement may be terminated in whole or in part. A termination "in part" applies to situations where a CE participates in more than one CNP and withdraws from or is determined to be ineligible for at least one but not all of the programs.

If a CE is determined to be ineligible to participate in a CNP as a result of serious deficiency in the ability to comply with requirements, its Permanent Agreement must be terminated "in whole." Meaning participation in all CNPs would be terminated, if applicable.

TDA must terminate a CE's Permanent Agreement if the CE:

- Ceases to be eligible for the CACFP (i.e. loses tax exempt status);
- Is disqualified from the CACFP in another State or by USDA Food and Nutrition Service (FNS);
- Is disqualified from the CACFP by TDA;
- Is disqualified or excluded from participation in another CNP by TDA, another State, or USDA FNS; or
- Any other action affecting the CE's ability to administer the CACFP in accordance with the Program Agreement.

8211 Failure to Renew

Although CEs enter into a Permanent Agreement with TDA to operate the CACFP, they must still submit specific information annually to renew participation. If a CE notifies TDA in writing that it does not intend to renew its participation in the CACFP, its Permanent Agreement will be amended (if the CE participates in more than one component of the CACFP or another CNP) or terminated by mutual consent, as appropriate.

However, a CE will be placed in the serious deficiency process if it begins the renewal process and fails to:

- Submit all required documentation or information;
- Correct submitted information or submit additional information as requested by TDA; or
- Notify TDA that its failure to complete the renewal process is because it has decided to withdraw from the CACFP and/or terminate its Permanent Agreement.

8212 Termination by Mutual Consent

TDA and a CE may mutually consent to terminate the Permanent Agreement at any time.

Termination by mutual consent generally occurs as a result of the CE's decision to withdraw from the CACFP and can occur at any time during the program year, including at the time of renewal. TDA will not agree to termination by mutual consent if there are any operational issues discovered as part of a risk assessment or closeout review.

NOTE: Termination by mutual consent is not an adverse action. Therefore, a CE cannot appeal this termination.

8220 Day Care Home Provider Termination

Providers who have been terminated for cause, disqualified from participation in the CACFP, or excluded from participation in the Summer Food Service Program are ineligible to participate in the CACFP. USDA maintains the National Disqualified List and TDA maintain the Texas Excluded Summer Food Service Program List (TEXSL).

The *Provider Application – Day Care Homes and Permanent Agreement Between Sponsor and Day Care Home Provider(s)* (H1542) defines the relationship between the CE and a provider. If one of a CE's providers is seriously deficient in his or her ability to comply with CACFP requirements, the CE is responsible for placing the provider in the Serious Deficiency Process.

NOTE: Refer to Section 10000 for procedures related to the Serious Deficiency Process.

8300 Appeals

A CE may only request an appeal of certain adverse actions. An adverse action is an action that denies or reduces CACFP benefits to the CE. The lists below detail which actions can and cannot be appealed.

8310 Contracting Entity Appeals

8311 Actions Subject to Appeal

A CE has the right to appeal:

- Denial of a new or renewal application.
- Denial of a sponsored site or provider's application.
- Proposed termination and proposed disqualification.
- Suspension of participation (due to imminent threat to health or safety or submission of false or fraudulent claims).
- Denial of start-up or expansion funds
- Denial of advances.
- Recovery of advances (demand from TDA for repayment of advances not covered by claims submitted or due to non-claiming for the month(s) of the advance(s)).
- Denial of all or part of a claim, except the denial due to late submission.
- TDA's denial to submit the CE's request for a good cause exception to the United States Department of Agriculture (USDA) for consideration of payment.
- Overpayment demand.
- Other actions taken by TDA, which affect the CE's participation or claim for reimbursement.

A CE may not appeal:

- USDA denial of a claim.
- Determination of serious deficiency.
- Determination that corrective action is inadequate.
- Disqualification and placement on the NDL.
- Termination of a participating organization's Permanent Agreement as a result of the Serious Deficiency Process, including termination based on the disqualification of that organization by another State agency or USDA.
- Denial of removal from the NDL.
- TDA's refusal to consider the application of an organization when the organization or one of its principals is on the NDL.
- TDA's refusal to consider the application submitted on behalf of a sponsored site or provider when the site or provider or one of its principals is on the NDL.
- Termination by mutual consent.

8312 Appeal Process

Requests for an appeal must be received by TDA within 15 days of receipt of notification of an adverse action. The appeal must:

- Be in writing;
- State the basis for the appeal of the adverse action;
- Include a legible copy of the adverse action letter.

If there is a request for an in-person hearing, the request must be submitted at the time the written appeal is filed. If a written hearing request is not included in the appeal, the CE waives the right to a hearing and the appeal will be decided upon review of the documents in the record, unless the Administrative Review Official (ARO) determines that the failure to make a timely request was due to circumstances beyond the control of the appellant.

TDA has the discretion to refer a request for a hearing to the State Office of Administrative Hearings (SOAH) for resolution. Should the CE wish to have a hearing held by the State Office of Administrative Hearings (SOAH), the CE must make that request at the time of the written appeal.

The appeal must be mailed or faxed to:

FOOD AND NUTRITION APPEALS
TEXAS DEPARTMENT OF AGRICULTURE
LEGAL DIVISION
ATTN: DOCKET CLERK
PO BOX 12847
AUSTIN, TEXAS 78711
FAX (800) 909-8530

The appeal may behand-delivered or submitted via overnight/special delivery service to the following street address:

TEXAS DEPARTMENT OF AGRICULTURE
LEGAL DIVISION
1700 NORTH CONGRESS, 11TH FLOOR
AUSTIN, TEXAS 78701

The rules regarding the appeal procedures for CACFP are found in Title 4 of the Texas Administrative Code, Part 1, Chapter 26, Subchapter E.

NOTE: Any documentation a CE wants to have considered for the appeal must be submitted within 30 days of receipt of an adverse action. The CE can submit the document with the request for an appeal, or separately.

CEs that wish to confirm receipt of their appeal request may contact the Legal Division at (512) 463-4075.

EXCEPTION: CEs that want to appeal an adverse action that was based on the findings of a federal audit or review must submit a written request to USDA at:

ADMINISTRATIVE REVIEW DIVISION
USDA – FNS RM. 523
3101 PARK CENTER
ALEXANDRIA, VIRGINIA 22031

The USDA Administrative Review Division must receive the request for an appeal within 15 days after the CE's receipt of notification of adverse action. CEs must include a copy of the adverse action notification received from USDA, or from TDA, acting on behalf of or as directed by USDA, as applicable.

8320 Day Care Home Provider Appeals

8321 Actions Subject to Appeal

Providers have the right to appeal any actions taken which adversely affect their participation in the CACFP or claims for reimbursement, including:

- Denial of the *Provider Application – Day Care Homes, and Permanent Agreement Between Sponsor and Day Care Home Provider(s)* (H1542).
- Full or partial denial of a provider's claim for meals.
- Denial of a resident child's eligibility to participate in the CACFP.
- Denial of Tier I reimbursement status.
- Proposed termination and disqualification, including suspension if applicable, as part of the Serious Deficiency Process.
- Termination of the provider's participation (does not apply to termination by mutual consent or as a result of the serious deficiency process).

8322 Day Care Home Provider Appeal Process

A CE must establish one uniform appeal procedure for all providers under its sponsorship, and supply the procedures to a provider when it:

- Signs an application and agreement with the provider, and yearly after that.
- Takes an action which adversely affects the provider's participation in the CACFP or claims for reimbursement.
- Any other time, upon request.

NOTE: An adverse action is any action that denies or reduces program benefits to the provider.

The CE's appeal procedures must:

- Provide the name and address of the independent and impartial appeals official to whom the provider must send a written request for an appeal.
- Inform the provider that a request for an appeal must be received by the appeals

official within 15 days of receipt of a notification of adverse action.

- Specify that the provider may request a review of the written documentation only or request an in-person hearing (this may be via telephone).
- State that the appeals official will acknowledge receipt of the provider's request for an appeal within 10 days of receipt.
- Inform the provider that the appeals official will notify the provider and CE of the hearing date a minimum of 10 calendar days prior to the hearing if the provider requested an in-person hearing.
- Inform the provider that they have the opportunity to review the entire record on which a suspension or proposed termination is based, and to refute the bases for these actions in writing.
- Inform the provider that written documentation they want considered must be received by the appeals official within 30 days of receiving the notification of adverse action.
- Advise the provider that they may retain legal counsel or representation.
- Inform the provider that failure to appear for a scheduled hearing (either in-person or via telephone) will result in a decision being based solely on written submission, and the provider waives their right to a hearing. (NOTE: The appeals official may reschedule at their discretion).
- Inform the provider that the appeals official will rule on the action within 60 days of receiving the request and will provide the provider and CE written notification of the decision.
- Inform the provider that the appeals official's decision is the final administrative determination to be afforded to the provider.

Each adverse action notification must be sent by United States Postal Service (USPS) certified mail, return receipt requested*, and a second copy of the notification by regular mail, for example, standard USPS first-class mail. CEs must advise the provider of the above appeal procedures in each notification that contains an adverse action.

* CEs may submit an alternate procedure for documenting the date that a provider is notified of his/her right to appeal. Approval must be received from TDA prior to using an alternate procedure.

The procedure must clearly demonstrate how the CE will:

- Document that the notification was sent.
- Confirm that the provider received the notification.

Once a provider is notified of an adverse action, the CE must allow the provider a 30-day window to review the materials upon which its action was based. If the provider requests a written review or an in-person hearing, the CE must send the provider a copy of the documentation it submits to the appeals official. However, if the provider requests this information prior to requesting a written review or in-person hearing, the CE must give the provider a copy.

The appeals official must allow the CE and the provider or the provider's designated representative to attend the hearing to provide testimony, rebut the testimony of others, and answer questions posed by the appeals official.

When ruling on an appeal, the appeals official must:

- Determine whether the actions taken by the CE followed Federal and state requirements;
- Consider the testimony provided by the CE's representative and that of the provider or the provider's designated representative (if in-person/telephone hearing); and
- Consider the written documentation received by the CE and provider.

The appeals official may not:

- Interpret the intent or expand the meaning of the Federal regulations and state rules and policies;
- Validate the serious deficiency determination (if the provider has been determined seriously deficient);
- Verify whether corrective actions submitted by the provider fully and permanently corrects the non-compliances; or
- Establish a settlement of demands for overpayments.

CEs should provide the appeals official copies of all handbooks, materials, and guidance provided by TDA, and offer training to the appeals official or invite the appeals official to training provided to staff and/or providers to assist in familiarizing the appeals official with the CACFP requirements.

Within 60 days of receiving a provider's request for appeal, the appeals official must rule on the appeal and notify the CE and the provider of the final ruling.

The CE's actions remain effective throughout the appeal process. However, the provider can continue to participate while appealing a termination, unless the termination was based on an imminent threat to the health or safety of a child or children in care, or the public health or safety. If a provider continues to participate while appealing a termination and the CEs action is upheld, the provider will not be reimbursed for any meals that they serve during the appeal process.

If the CE's action is reversed, it must submit an adjusted claim to TDA within 15 calendar days of notification of the reversal. The provider must be reimbursed within five working days of the CE receiving payment.

If the CE's action is overturned and an adjusted claim is not required, the CE must pay the provider any reimbursement to which he/she is entitled within five calendar days of the notification of reversal.

If the CE's action is upheld, the effective date of termination is the date in the CE's original notification.

Section 9000
Terms, Definitions and Acronyms

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9000
Terms, Definitions and Acronyms

9100 Terms and Definitions

Accountable – The new or renewing contracting entity has in place internal controls to assure that Program funds for meals and administrative expenses are properly spent.

Administrative Costs – Costs incurred by a contracting entity related to planning, organizing, and managing a food service under the Program, and allowed by TDA.

Administrative Review Official – The independent and impartial official who conducts a fair hearing or an appeal.

Administratively Capable – The new or renewing contracting entity has documented it has the staffing and expertise to meet all of the Program's requirements.

Advance Payments – Financial assistance made available to a contracting entity for its Program costs prior to the month in which such costs will be incurred.

Affiliated Site – A site that is part of the same legal entity as the contracting entity. For-profit contracting entities may only sponsor affiliated sites.

Aggregate – The whole sum or amount (i.e., the total meal count by types for any day).

Agreement – An understanding between two or more parties that is duly executed and legally binding.

Alternate Form – A form developed by an entity other than TDA to be used in place of a TDA form.

Annually – Once during each Program Year.

Appeal – The fair hearing provided upon request to:

a) A contracting entity that has been given notice by the TDA of any action or proposed action that will affect the contracting entity's participation or reimbursement under the Program; and

b) A principal or individual responsible for a contracting entity's serious deficiency after the responsible principal or responsible individual has been given a notice of intent to disqualify them from the Program.

At-risk Afterschool Care Center – A public or private nonprofit organization that is participating or is eligible to participate in the CACFP as a contracting entity or as a sponsored site and that provides nonresidential child care to children after school through an approved afterschool care program located in an eligible area. However, an *Emergency shelter,* may participate as an at-risk afterschool care center without regard to location.

CACFP – The Child and Adult Care Food Program.

Center – A child care center, an at-risk afterschool care center or an outside-school-hours care center. Centers are also referred to as "sites".

Child Care Center – Any public or private nonprofit center, or any for-profit center that is licensed or approved to provide nonresidential child care services to enrolled children, primarily of preschool age, including but not limited to day care centers, settlement houses, neighborhood centers, Head Start centers and organizations providing day care services for children with disabilities. Child care centers may participate in the Program as independent centers or as sponsored sites.

Child Care Site – A licensed or approved child care center, at-risk afterschool care center or outside-school-hours care center under the sponsorship of a contracting entity.

Children – Includes:
a) Persons age 12 and under;
b) Persons age 15 and under who are children of migrant workers;
c) *Persons with disabilities,* as defined in this section;
d) For emergency shelters, persons age 18 and under; and
e) For at-risk afterschool care centers, persons age 18 and under at the start of the school year.

Contract – A binding agreement where there is an "exchange of legal consideration" (i.e., legally enforceable).

Contracting Entity – A sponsoring organization or an independent center that enters into an agreement with TDA to assume final administrative and financial responsibility for Program operations.

Days – Calendar days, unless otherwise specified.

Disabled Child/Infant – Any child or infant who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.

Disqualified – The status of an organization or responsible principal or responsible individual that was declared seriously deficient and placed on the National Disqualified List.

Edit Check – A method of comparing information on a claim to other available information to determine the validity of the claim.

Egregious – A consistent flagrant or glaring violation of CACFP requirements

Eligible Area - For the purpose of determining the:

a) Eligibility of at-risk afterschool care centers, the attendance area of an elementary, middle, or high school in which at least 50 percent of the enrolled children are certified eligible for free or reduced-price school meals; or
b) Tiering status of day care homes, the area served by an elementary, middle or high school in which at least 50 percent of the total number of children are certified eligible to receive free or reduced-price meals, or the area based on census data in which at least 50 percent of the children residing in the area are members of households that meet the income standards for free or reduced-price meals.

Emergency Shelter – A public or private nonprofit organization or its site that provides temporary shelter and food services to homeless children.

Enrolled Child – A child whose parent or guardian has submitted a signed document that indicates that the child is enrolled for child care. Any child who <u>could</u> be in attendance, for the purpose of receiving child care and at least one CACFP meal, would be an enrolled child. For at-risk afterschool care centers, outside-school-hours care centers, or emergency shelters, the term "enrolled child" or "enrolled participant" does not apply.

Expendable Equipment – All equipment, other than nonexpendable equipment, with a useful life of less than one year.

Financially Viable – The new or renewing contracting entity has the financial resources to meet all of the Program's requirements.

Firm Fixed-Price Contract – A contract in which the price paid the supplier is based on a lump sum or unit basis.

Fiscal Year – A period of 12 calendar months that constitutes as a contracting entity's accounting year.

Food component – One of the food groups that contribute to the reimbursable meal (example**:** vegetable/fruit).

Food item – One of the food servings that contribute to the reimbursable meal (example: two servings of vegetables or fruits, or one of each).

Food Service Management Company — An organization, other than a public or private nonprofit school, with which a contracting entity may sign a contract for preparing, and unless otherwise provided for, delivering meals, with or without milk, for use in the CACFP.

For-profit Center/Site – A child care center or outside-school-hours care center providing nonresidential care to children that does not qualify for tax-exempt status under the Internal Revenue Code of 1986. For-profit centers serving children must meet the definition of child care center or outside-school-hours care center, and one of the following conditions during the calendar month preceding initial application or reapplication (**exception** – children who only participate in the at-risk afterschool care center component of the Program must not be considered in determining the percentages below):

1) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) are eligible for free or reduced-price meals; or
2) Twenty-five percent of the children in care (enrolled or licensed capacity, whichever is less) receive benefits from title XX of the Social Security Act and the center receives compensation from amounts granted to the States under title XX.

Foster Child – An individual who is placed by an authorized placement agency or by judgment, decree or other order of any court of competent jurisdiction and is distinct from a "child" of the household.

Free Meal – A meal served under the Program to a child from a family which meets the income standards for free school meals; or to a child who is automatically eligible for free meals by virtue of SNAP, FDPIR, or TANF recipiency; or to a child who is a Head Start, Early Head Start or Even Start participant; or to a child who is receiving temporary housing and meal services from an approved emergency shelter; or a child participating in an approved at-risk afterschool care center.

Frontloading – Conducting a majority of monitoring reviews early in the Program Year.

Governing Body – The elected or appointed members of an organization who jointly oversee the activities of the organization, sometimes referred to as the Board of Directors or Executive Board. In the case of for-profit organizations not required to have a Board of Directors, the Governing Body could consist of the owner or owners of the organization.

Income to the Program – Any funds used in a contracting entity's food service, except Program payments. Examples include, but are not limited to, funds from other government sources, children's payments for meals and food service fees, cash donations, and grants from organizations or individuals.

Independent Center – A child care center, emergency shelter, at-risk afterschool care center, or outside-school-hours care center, which enters into an agreement with TDA to assume final administrative and financial responsibility for Program operations.

Independent Governing Board of Directors – In the case of a nonprofit organization; or in the case of a for-profit organization required to have a board of directors, a governing board which meets regularly and has the authority to hire and fire the Organization's executive director.

Internal Controls – The policies, procedures, and organizational structure of a contracting organization designed to reasonably assure that:

a) The Program achieves its intended result;
b) Program resources are used in a manner that protects against fraud, abuse, and mismanagement and in accordance with law, regulations, and guidance; and
c) Timely and reliable Program information is obtained, maintained, reported, and used for decision-making.

Key Activities – Essential CACFP activities, as defined by F&N, performed to meet the requirements of the Program.

Lactose Intolerance – A term used to describe the inability to digest or absorb lactose, a type of sugar found in milk and milk foods.

Licensed Physician – A person licensed to practice medicine. Licensed physicians include Doctors of Osteopathy.

Low-income Area – A geographical area in which at least 50 percent of the children are eligible for free or reduced-price school meals under the National School Lunch Program and the School Breakfast Program.

Major Life Activity – Includes, but not limited to, caring for one's self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, and major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

Meals – Food that is served to enrolled children at a center and which meets Program requirements. However, children participating in at-risk afterschool care centers, emergency shelters, or outside-school-hours care centers do not have to be enrolled.

Milk – Pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk that meet state and local standards. Milk must contain vitamins A and D at levels specified by the Food and Drug Administration (FDA).

National Disqualified List – The list, maintained by USDA, of organizations, responsible principals and responsible individuals disqualified from participation in the Program.

New Center – An approved center that has not begun participation in the Program either under a sponsoring organization or as an independent center.

Nonexpendable Equipment – All equipment with a useful life of more than one year.

Nonpricing Program – An organization, child care center, or adult day care center in which there is no separate identifiable charge made for meals served to participants.

Nonprofit Food Service – All food service operations conducted by the contracting entity principally for the benefit of enrolled children, and from which all of the Program reimbursement funds are used solely for the operations or improvement of such food service.

Nonresidential Site — A site that does not keep the same children for more than 24 hours on a regular basis.

Operating costs – Expenses incurred by a contracting entity serving meals to children under the Program.

Participants – See "Children."

Participating Center – A center that claims meals for a given month is considered to be "participating in the Program for the claim month." This includes sponsored sites.

Personal property – Property of any kind, except real property. Property may be tangible (having physical existence such as fax machines, printers or copiers) or intangible (having no physical existence, such as patents, inventions and copyrights).

Persons with Disabilities - Persons of any age who have one or more disabilities, as determined by the State, and who are enrolled in an Organization or child care facility serving a majority of persons who are age 18 and under.

Potential Contracting Entity – A sponsoring organization or independent center applying to participate in the Program for the first time or applying to participate in the Program after a lapse in participation.

Pricing Program – An organization, child care center, or adult day care center in which a separate identifiable charge is made for meals served to participants.

Principal – Any individual who holds a management position within, or is an officer of, an Organization or a sponsored center, including all members of the Organization's board of directors or the sponsored center's board of directors.

Procurement – An orderly process of acquiring food, meals, equipment and other goods and services, whether by lease or purchase.

Program – The Child and Adult Care Food Program authorized by Section 17 of the National School Lunch Act, as amended.

Program Payments – Financial assistance in the form of start-up payments, expansion payments, advance payments, or reimbursement paid or payable to contracting entities for operating costs and administrative costs.

Program Year (PY) – A period of 12 calendar months beginning October 1 of any year and ending September 30 of the following year.

Publicly Funded Program – Any program or grant funded by public funds including, but not limited to, federal, state, or local government funds.

Recognized Medical Authority – Includes licensed physicians, physician assistants and nurse practitioners.

Reimbursement – Federal financial assistance paid or payable to contracting entities for Program costs within the rates assigned by the USDA.

Renewing Contracting Entity – A sponsoring organization or independent center that is participating in the Program at the time it submits a renewal application.

Responsible Principal or Responsible Individual –

a) A principal, whether compensated or uncompensated, who TDA or USDA determines to be responsible for a contracting entity's serious deficiency;
b) Any other individual employed by, or under contract with, a contracting entity who TDA or USDA determines to be responsible for the serious deficiency; or
c) An uncompensated individual who TDA or USDA determines to be responsible for a contracting entity's serious deficiency.

Review Averaging – Conducting the same total number of annual monitoring reviews (three times the number of sponsored sites) by reviewing some sites twice a year and other sites three or more times per year.

Review Cycle – The period of time and the frequency with which sponsored sites must be reviewed.

Seriously Deficient – The status of a contracting entity that has been determined to be non-compliant in one or more aspects of its operation of the Program.

Site – A sponsored affiliated or unaffiliated child care center, Outside-School-Hours care center, At-risk Afterschool Care Center and emergency shelter.

Snack - A meal supplement that meets the meal pattern requirements.

Sponsoring Organization (Sponsor) – A *public or nonprofit private organization* that is entirely responsible for the administration of the food program in:

a) One or more day care homes;
b) A child care center, emergency shelter, at-risk afterschool care center, outside-school-hours care center, or adult day care center, which is a legally distinct entity from the sponsoring organization;

c) Two or more child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, or adult day care centers; or
d) Any combination of child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, adult day care centers, and day care homes.

The term "sponsoring organization" also includes an organization that is entirely responsible for administration of the Program in any combination of two or more child care centers, at-risk afterschool care centers, adult day care centers or outside-school-hours care centers, which meet the definition of *For-profit center/site* and are part of the same legal entity as the sponsoring organization.

State Agency – The Texas Department of Agriculture (TDA).

State Agency List – The list, maintained by TDA, of organizations, responsible principals, responsible individuals and day care home providers disqualified by TDA from participation in the Child Nutrition Programs.

Temporarily Defer – To postpone the serious deficiency process until or unless it is determined that the serious deficiency or serious deficiencies were not fully and permanently corrected.

Termination by Mutual Consent – The termination of a contracting entity's Permanent Agreement by either the contracting entity or TDA due to considerations unrelated to either party's performance of Program responsibilities under the Agreement.

Termination for Cause – The termination of a contracting entity's Permanent Agreement by TDA due to the contracting entity's violation of the Agreement. Termination for cause also includes the termination of a sponsored site's agreement by the contracting entity due to the site's violation of its agreement with the sponsor.

Unaffiliated Site – A legally distinct entity from the sponsoring organization.

Unannounced Review – An on-site review for which no prior notification is given to the contracting entity or sponsored site.

USDA – The United States Department of Agriculture.

USDA Foods – Foods donated by the United States Department of Agriculture (USDA).

9200 Acronyms

ADA	Americans with Disabilities Act
ADC	Adult Day Care
ADP	Average Daily Participation
ARO	Administrative Review Official
CACFP	Child and Adult Care Food Program
CAP	Corrective Action Plan
CCC	Child Care Center
CCFP	Child Care Food Program
CCMS	Child Care Management Services
CFR	(U.S.) Code of Federal Regulations
CN	Child Nutrition
CSFP	Commodity Supplemental Food Program
DFPS	(Texas) Department of Family and Protective Services
EHSP	Early Head Start Program
EIN	Employee Identification Number
ESP	Even Start Program
FCS	USDA Food and Consumer Service
FDA	Food and Drug Administration
FDP	Food Distribution Program
FND	Food and Nutrition Division
FNS	USDA Food and Nutrition Service
FSMC	Food Service Management Company
FY	Fiscal Year
F&N	Food and Nutrition
GAAP	Generally Accepted Accounting Principles
HSP	Head Start Program
HUB	Historically Underutilized Business
IFB	Invitation for Bid
IRS	U.S. Internal Revenue Service
ISD	Independent School District

NDL	National Disqualified List
NGO	Non-Governmental Organization
NSLP	National School Lunch Program
OMB	Office of Management and Budget
PK	Pre-kindergarten
PNO	Private Nonprofit Organization
PY	Program Year
RDA	Recommended Dietary Allowance
RFP	Request for Proposals
SAE	State Administrative Expense
SBP	School Breakfast Program
SFA	School Food Authority
SFSP	Summer Food Service Program
SMP	Special Milk Program
SNAP	Supplemental Nutrition Assistance Program
SO	Sponsoring Organization
SSI	Supplemental Security Income
SSN	Social Security Number
TAC	Texas Administrative Code
TANF	Temporary Assistance for Needy Families
TDA	Texas Department of Agriculture
TDD	Telecommunications Display Device
TEA	Texas Education Agency
TMP	Total Monthly Participation
TX-ID	Texas Identification Number
TEXCAP	Texas Commodity Assistance Program
TX-UNPS	Texas Unified Nutrition Programs System
UCN	Uniform Contract Number
USDA	United States Department of Agriculture
USPS	United States Postal Service
WIC	Special Supplemental Nutrition Program for Women, Infants and Children

Section 10000
Serious Deficiency

Log of Section Updates

This table will reflect updates to the handbook implemented during the current Program Year. All substantive updates made this Program Year will be highlighted in yellow within this section.

Date of Edit	Content/Purpose	Subsection
May 2025	Added more detail regarding the suspension review process for CEs that are suspected of false or fraudulent activity.	10410
11-15-2024	Added regulatory language that defines what needs to be included in an official Notice and when a Notice is considered received if it is undeliverable. Also added clarity about TDA's process for how SD notices are delivered to Contracting Entities.	10100, 10600
	Removed examples of serious deficiencies that were inapplicable to renewal applications.	10220
	Aligned the Serious Deficiency Process for unaffiliated child care centers, at-risk centers, and adult day care centers with the process for day care home providers. Sponsors of unaffiliated centers are responsible for managing the Serious Deficiency Process for their sites and for sending copies of SD-related notices to TDA throughout the process.	10600, 10610, 10620, 10630, 10640, 10650, 10660
	Updated the Serious Deficiency notification process for DCH providers and unaffiliated centers – instead of emailing a copy of each provider notice to TDA, sponsors of day care homes must submit notices via the CACFP Serious Deficiency Process Notification Form.	
	Removed reference to Section 11000, where Sponsor/Provider Serious Deficiency notification templates were previously located. The templates have been extracted in Word form and are posted on SquareMeals.	
	Updated Notification Template names to match names as documented in TDA's templates suite posted on SquareMeals.	

	Updated criteria for analyzing non-compliance to determine if it is a serious deficiency. This is a non-substantive update to align with USDA's guidance language.	10610
	Updated criteria for a successful day care home provider-developed corrective action plan to align with USDA's guidance.	10630
	Added non-substantive clarifying language throughout to align with USDA guidance.	N/A
	Reformatted and renumbered section.	

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Serious Deficiency

The serious deficiency process both ensures compliance with Program requirements while also allowing organizations, principals, and individuals an opportunity to correct serious deficiencies and continue participation in the Program. TDA maintains a State Agency List that documents every Contracting Entity (CE) that is placed in the Serious Deficiency process and will update the status of each CE throughout the process.

10100 Written Notice during the Serious Deficiency Process

Throughout the serious deficiency process, TDA will send written notice as applicable to inform Contracting Entities (CEs) of corrective action and serious deficiency status. Examples of notices may include:

- Notice of Serious Deficiency
- Notice of Accepted Corrective Action and Temporary Deferral of Serious Deficiency
- Notice of Proposed Termination and Proposed Disqualification
- Notice of Termination and Disqualification
- Notice of Intent to Suspend
- Notice of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification for Imminent Threat to Health and Safety
- Notice of Serious Deficiency Temporary Deferral, Following Successful Appeal of Proposed Termination and Proposed Disqualification
- Notice of Serious Deficiency Temporary Deferral and Suspension Rescission Following Successful Appeal of Suspension, Proposed Termination, and Proposed Disqualification

Each of the above notices is described in more detail later in this chapter.

All notices will be provided to the organization's Executive Director, Chairman of the Board, and all applicable responsible principals/individuals. The Executive Director, responsible for the organization's day-to-day operations, and the Chairman of the Board of Directors (or equivalent), responsible for the organization's overall operation, may not always be directly responsible for a specific serious deficiency; however, by virtue of their positions, they have overall responsibility and accountability for the organization and will therefore be named as responsible principals. In absence of positions matching those title names, notices are sent to the highest official within the organization (i.e., owner).

All notices must specify the action being proposed or taken and the basis for the action. TDA sends all notices to the email addresses contained in the Program application; it is important that every CE ensures that the email addresses for all responsible principals/individuals noted above are up to date. It is considered received once the email is sent.

If the notice is undeliverable via email, TDA will send the notice via certified mail to the addressee's last known address. It is considered received by the CE, responsible principal, or responsible individual five days after being sent.

Refer to Section 9000, *Terms and Definitions*, for a definition of responsible principal and responsible individual.

10200 Organizations Applying to Participate in the CACFP

10210 New Organizations

An organization that applies to participate in the CACFP as a new CE must submit a complete and correct application to be considered for approval.

If it is determined that the organization has committed a serious deficiency in the application, TDA will take action to deny the application and disqualify the organization and any responsible principals and individuals who contributed to the serious deficiency.

The following items represent a serious deficiency in a new organization's application that could result in the denial of the application and placement of the organization and any responsible principals and individuals on the National Disqualified List (NDL):

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity. A lack of business integrity includes but is not limited to:
  - Fraud
  - Antitrust violations
  - Embezzlement
  - Theft
  - Forgery
  - Bribery
  - Falsification or destruction of records
  - Making false statements
  - Receiving stolen property
  - Making false claims
  - Obstruction of justice, or
  - Any other activity indicating a lack of business integrity as determined by TDA.
- Any other action affecting the organization's ability to administer the CACFP in accordance with Program requirements.

Other examples of false information, actions, or documentation that affects the organization's ability to administer the Program include but are not limited to:

- Submission of false documentation in an attempt to receive reimbursement one month prior to participation; and
- Receipt of information, documentation, or statements that establish the organization will not be able to operate the Program as represented in its application.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:

- The identified serious deficiency(ies);
- The actions necessary to correct the serious deficiency(ies);

- The time allotted to correct the serious deficiency(ies);
- That the serious deficiency determination is not subject to appeal;
- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in denial of the application and the disqualification of the organization and the responsible principals and responsible individuals;
- That the organization will not be paid for any claims for reimbursement for eligible meals served or allowable administrative expenses incurred until the organization has an approved application and fully executed permanent agreement;
- That if the organization withdraws its application after receiving this notice, the application will still be denied, and the organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL; and
- That, if TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of approvable corrective action.

Corrective Action Accomplished:

If the organization fully and permanently corrects the serious deficiency(ies) within the specified time frame, TDA will inform the organization and the responsible principals in writing that TDA has deferred its serious deficiency determination and will update the CE's status on the State Agency List. The organization may then submit a new complete application.

NOTE: If the responsible principals or individuals have not corrected their contribution to the serious deficiency, TDA will continue its actions to disqualify those individuals.

Disqualification:

TDA will proceed with disqualification and placement on the NDL if:

- The organization voluntarily withdraws its application after receiving the Notice of Serious Deficiency.
  - The CE will not receive appeal rights or further opportunity for corrective action if it voluntarily withdraws its application.
- The organization or responsible principals/individuals fail to fully and permanently correct the serious deficiency(ies) within the specified time frame.
- The organization or responsible principals/individuals fail to request an appeal within 15 days of receipt of the notice.
- The Administrative Review Official (ARO) upholds TDA's denial of the application and proposed actions.

If any of the above occurs, TDA will notify the organization, responsible principals, and responsible individuals of their disqualification and placement on the NDL

10220 Renewing Organizations

A CE that wants to continue participation must submit a renewal application each year that meets all CACFP application requirements.

If it is determined the CE has committed a serious deficiency in the renewal application, TDA will place the organization, responsible principals, and responsible individuals in the serious deficiency process.

Each of the following items represent a serious deficiency in a renewal application that could result in the denial of the application, termination of the Permanent Agreement, and placement of the organization, responsible principals, and responsible individuals on the NDL

The items include, but are not limited to:

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity (see section 10210 above for examples).
- Failure to conform with regulatory performance standards:
    - Performance Standard 1 – Financial viability and financial management.
    - Performance Standard 2 – Administrative capability.
    - Performance Standard 3 – Accountability.
- Failure to properly train or monitor sponsored sites or day care homes.
- Failure to perform any other required financial and administrative responsibilities.
- For day care home sponsors:
    - Failure to properly classify homes as tier I or tier II.
    - Failure to properly implement or administer the day care home termination and administration review (appeal) process.
- Any other action affecting the organization's ability to administer the CACFP in accordance with program requirements as stated in this handbook and the Permanent Agreement.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:

- The serious deficiency(ies);
- The actions to be taken to correct the serious deficiency(ies);
- The time allotted to correct the serious deficiency(ies);
- That the serious deficiency determination is not subject to appeal;
- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in denial of the organization's application, the proposed termination of the Permanent Agreement, and the proposed disqualification of the organization and the responsible principals and responsible individuals;
- That if the organization voluntarily terminates its Permanent Agreement after receiving this notice, the organization's Permanent Agreement will be formally terminated and the

organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL; and

- That, if TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of corrective action for the organization and/or individual.

Corrective Action Accomplished:

If the CE, responsible principals, and responsible individuals fully and permanently correct the serious deficiency(ies) within the specified time frame, they will receive notification that TDA has deferred its serious deficiency determination, and TDA will update the CE's status on the State Agency List. The CE may then re-submit the renewal application. The CE may continue to submit valid claims for reimbursement during this process.

NOTE: If any responsible principal or individual has not corrected their contribution to the serious deficiency, TDA will continue its actions to disqualify those individuals.

Application Denial and Proposed Disqualification/Termination:

If the CE, responsible principals, and/or responsible individuals do not fully and permanently correct the serious deficiency(ies) within the allotted timeframe, TDA will deny the renewal application, propose to terminate the Permanent Agreement, and propose to disqualify the CE, responsible principals, and/or responsible individuals from participation in the CACFP.

TDA will provide written notification to the organization and responsible principals and/or responsible individuals, that specifies:

- That the organization's renewal application has been denied and TDA is proposing to terminate the organization's Permanent Agreement and disqualify the organization, responsible principals, and/or responsible individuals;
- The basis for the actions;
- That if the organization voluntarily terminates its Permanent Agreement after receiving this notice, the organization's Permanent Agreement will be formally terminated and the organization, responsible principal and/or responsible individual will be disqualified and placed on the NDL;
- The procedures for appealing the renewal application denial and the proposed actions; and
- That the organization may continue to participate in the Program and receive eligible reimbursement incurred until its appeal is completed, if applicable.

Disqualification/Termination:

TDA will proceed with terminating the Permanent Agreement and disqualifying the CE, responsible principals, and individuals, and placing them on the NDL if the:

- CE voluntarily terminates its Permanent Agreement after receiving the *Notice of Renewal Application Denial and Proposed Termination and Proposed Disqualification*

- The CE will not receive appeal rights or further opportunity for corrective action as it voluntarily terminated its participation.

- CE fails to fully and permanently correct the serious deficiency(ies) within the specified time frame.
- CE fails to request an appeal within 15 days of receiving the *Notice of Renewal Application Denial and Proposed Termination and Proposed Disqualification*.
- The ARO upholds TDA's denial of the renewal application and proposed actions if the CE appeals the actions.

If the CE requests an appeal and the ARO upholds TDA's determination, the termination of the Permanent Agreement will be effective the day of the ARO's decision.

If an appeal is not requested within 15 days of receipt of the Notice, the termination of the Permanent Agreement will be effective on the date provided in the notification.

10300 Participating Contracting Entities

During an audit, administrative review, or any time during a CE's program participation, it may be determined that serious non-compliances have occurred or are occurring. As a result, the CE, responsible principals, and responsible individuals may be placed in the serious deficiency process and added to the State Agency List.

The steps in the serious deficiency process are as follows:

1. Serious Deficiency determination
2. Notice of Serious Deficiency
3. Opportunity for corrective action
4. Notice of Proposed Termination and Proposed Disqualification (if an approvable corrective action plan is not submitted or does not fully and permanently correct the non-compliances)
5. Notice of Termination of the Permanent Agreement and Disqualification of the organization, responsible principals, and responsible individuals.

10310 Serious Deficiency Determination

Serious deficiencies for a participating CE are:

- Submission of false information on the application such as concealment of a conviction within the past seven years that indicates a lack of business integrity.
- Permitting an individual who is on the NDL to serve in a principal capacity or perform CACFP functions with the organization, or permitting such an individual to serve as a principal in a sponsored site or as a day care home.

  NOTE: CEs must check the NDL prior to hiring new staff, submitting new sites, or hiring new staff.

- Failure to operate the CACFP in accordance with regulatory performance standards:
  - Performance Standard 1 – Financial viability and financial management.
  - Performance Standard 2 – Administrative capability.
  - Performance Standard 3 – Accountability.

EXAMPLES: continued submission of late claims; failure to account for CACFP funds; failure to use funds for allowable costs; failure to submit adjusted budgets as necessary; failure to train staff prior to beginning operations.

- Failure to comply with the procurement bid procedures and contract requirements.

  EXAMPLES: failure to advertise the Invitation for Bid and Contract for Purchased Meals (IFB) as required; obtaining bid specifications from a potential bidder; failure to disclose less-than-arms-length transactions.

- Failure to return to TDA any advance payments exceeding the amount earned for serving eligible meals.
- Failure to maintain adequate records.

  EXAMPLES: incomplete or incorrect eligibility or enrollment documentation; lack of documentation to support a claim, such as meal count and attendance records; financial documentation.

- Failure to adjust meal orders to conform to variations in the number of participants (for those who vend meals).
- Claiming reimbursement for meals not served to participants.
- Claiming reimbursement for a significant number of meals that do not meet CACFP requirements.
- Use of a Food Service Management Company that is in violation of health codes.
- Failure of a sponsoring organization to disburse payments to its sites/providers in accordance with the Program requirements and/or the CE's management plan.
- Claiming reimbursement for meals served by a for-profit adult day care center, if less than 25% of its enrolled adult participants were Title XIX or Title XX beneficiaries during the calendar month in which the meals were served;
- Failure of a sponsoring organization to properly train or monitor sites/providers;
- Failure to perform any of the other financial and administrative responsibilities in accordance with Program requirements.

  EXAMPLES: failure to submit a required audit; failure to return information required for corrective action; failure to complete the annual renewal process; failure to return unearned reimbursement including advances.

- The CE or any of the CE's principals have been declared ineligible for any other publicly funded program by reason of violating that program's requirements.
  - This prohibition does not apply if the CE or principal(s) have been fully reinstated or made eligible to participate in that program, including the payment of any debts owed.
- Conviction of the CE or any of its principals for any activity that occurred during the past seven years that indicated a lack of business integrity (see Section 10210 for examples).
- Submission of false claims.

- For day care home sponsors:
  - Failure to properly classify day care homes as tier I or tier II.
  - Use of day care home funds to pay for the sponsor's administrative expenses.
  - Failure to properly implement or administer the day care home termination and administrative review (appeal) provisions.
- Any other action affecting the CE's ability to administer the Program in accordance with CACFP requirements.

TDA may declare a CE, responsible principals, and responsible individuals seriously deficient for any serious management or integrity issues.

TDA will use discretion in making these serious deficiency determinations by distinguishing between:

- Occasional and systemic errors - Is the error an indication of a systemic problem in the organization's internal processes and procedures, or is it truly an isolated event?
- Minor and major errors - Does the error undermine the intent and integrity of the CACFP or is it simply an administrative error?

NOTE: Submission of false or fraudulent claims or documentation, or evidence of imminent threat to health or safety, will result in a determination that the organization is seriously deficient regardless of the frequency of occurrence or the impact on the organization's claim.

If a CE is deemed seriously deficient, TDA will always:

- Detail the non-compliances (known as "findings") that led to the declaration of serious deficiency.
- Refer to and apply state and federal laws, guidelines, and regulations to maintain consistency in making serious deficiency determinations.

Once a *Notice of Serious Deficiency* is issued, it can result in only two outcomes:

- The serious deficiency(ies) is fully and permanently corrected to comply with state and federal requirements; or
- The serious deficiency(ies) is not fully and permanently corrected within the time allotted, and TDA proposes termination of the CE's Permanent Agreement and disqualification and placement of the CE, responsible principals, and responsible individuals on the NDL.

When a CE is deemed seriously deficient, TDA must also:

- Determine who is responsible for the serious deficiency;
- Include the names of those individuals in the *Notice of Serious Deficiency*; and
- Send a copy of the notice to the CE, responsible principals, and responsible individuals.

NOTE: Indications of fraud or misuse of funds may be referred to USDA for investigation and referred for prosecution under applicable federal and state law.

10320 Notice of Serious Deficiency

The *Notice of Serious Deficiency* will specify:

- The serious deficiency(ies) with references to the documents that discuss the serious deficiency(ies), such as an administrative review findings letter, information or documentation in TX-UNPS, or audit;
- The corrective action(s) required to be taken to fully and permanently correct the serious deficiency(ies), and the deadline(s) by which corrective action must be taken and a corrective action plan submitted;
- The person(s) determined to be the responsible principals and responsible individuals (responsible for the serious deficiencies);
- The serious deficiency determination **is not** subject to appeal;
- Failure to fully and permanently correct the serious deficiency(ies) by the deadline will result in the proposed:
    - Termination of the CE's Permanent Agreement for cause; and
    - Disqualification of the CE, responsible principals and responsible individuals.
- Voluntary termination of the CEs Permanent Agreement after the CE receives the *Notice of Serious Deficiency* will result in the organization's formal termination and placement of the organization, responsible principals, and responsible individuals on the NDL without further opportunity for corrective action or appeal.
- If TDA does not have the date of birth for any individual named as a "responsible principal or individual' in the serious deficiency notice, the submission of that person's date of birth is a condition of approvable corrective action.

10330 Opportunity for Corrective Action

The CE and responsible principal(s)/responsible individual(s) will be allowed a specific amount of time to fully and permanently correct the serious deficiency(ies) before TDA proposes to terminate the Permanent Agreement.* The deadline is final and will not be extended.

***EXCEPTION:** If the serious deficiency is due to an imminent threat to the health or safety of participants, TDA will immediately suspend the CE's participation, propose to terminate the Permanent Agreement, and propose to disqualify the CE, responsible principal(s), and responsible individual(s) without opportunity for corrective action.

Refer to Item 10500, *Imminent Threat to Health or Safety*, for more information.

TDA will determine if the serious deficiency(ies) have been fully and permanently corrected by:

- Reviewing the documentation submitted detailing the corrective action taken; and
- Conducting an onsite review to verify that corrective action was taken, if needed.

If the serious deficiency(ies) is fully and permanently corrected within the time allowed, all parties will receive written notification that the serious deficiency process has been temporarily deferred. If at any time it is discovered that the serious deficiency(ies) has not in fact been fully and permanently corrected, TDA will immediately propose disqualification and termination without further opportunity for corrective action.

NOTE: If TDA does not have the date of birth for any responsible party, submission of that information will be part of the required corrective action. Failure to provide the required date(s) of birth will result in denial of a CE's corrective action.

10340 Notice of Proposed Termination and Proposed Disqualification

The *Notice of Proposed Termination and Proposed Disqualification* will specify:

- That TDA is proposing to terminate the CE's Permanent Agreement;
- That TDA is proposing to disqualify the CE, responsible principal(s) and responsible individual(s);
- The basis for the proposed actions;
- The effective date for the proposed actions;
- The procedures for appealing the proposed actions;
- That the CE will receive CACFP payments for eligible meals and operation/administrative costs during the period of appeal (unless its participation has been suspended); and
- That voluntary termination of the CEs Permanent Agreement after the CE receives the *Notice of Proposed Termination and Proposed Disqualification* will still result in the organization's formal termination and placement of the organization, responsible principals and responsible individuals on the NDL without further opportunity for corrective action or appeal.

This notice will be sent to the CE, Executive Director, Chairman of the Board, and any other responsible principal(s) and responsible individual(s), and TDA will update the CE's status on the State Agency List

Any identified parties in the *Notice of Proposed Termination and Proposed Disqualification* may file for appeal. Each person wishing to appeal their proposed disqualification from the Program and placement on the NDL must submit a request either collectively, naming each person, or separately. Only a responsible principal may appeal the proposed termination and proposed placement of the organization on the NDL. At the discretion of the ARO, one hearing will be conducted combining all requests received from the responsible principals and responsible individuals.

If a request for an appeal <u>is not</u> received within 15 days of receipt of the notice, TDA will immediately issue a *Notice of Termination and Disqualification*.

If a request for an appeal <u>is</u> received within 15 days of receipt of the Notice, and the ARO overturns TDA's action, TDA will issue a *Notice of Temporary Deferral of Serious Deficiency*. The effective date of the temporary deferral will be the same date of the ARO's decision.

10350 Notice of Termination and Disqualification

The *Notice of Termination and Disqualification* will inform all parties that the:

- Permanent Agreement has been terminated; and
- Organization, responsible principal(s), and responsible individual(s) have been disqualified and placed on the NDL.

The effective date of the termination and disqualification is the date in the *Notice of Proposed Termination and Proposed Disqualification* letter if a request for an appeal was not received or was not received timely. If a request for an appeal was received and TDA's actions were upheld, the effective date will be the date of the ARO's decision.

10400 Submission of False Claims and Documentation

Submitting false information on a claim for reimbursement and submitting false documentation in support of that claim to receive reimbursement is a serious deficiency.

If it is determined that a CE knowingly submitted false information or documentation to receive reimbursement, the CE will be placed in the serious deficiency process, and its Program participation, including Program payments, may be suspended.

10410 Suspension

Proposal to suspend for the submission of false claims is an action taken simultaneously with the serious deficiency process.

Once the determination is made, the CE will receive a *Notice of Intent to Suspend*. This notice will not be combined with the *Notice of Serious Deficiency*; however, both notices will be sent to the CE and its responsible principal(s) and responsible individual(s) at the same time.

The notice will:

- Inform the CE that TDA is proposing to suspend its participation, including all payments;
- Specify that the proposed suspension is due to the CE's submission of a false claim or false information/documentation to receive reimbursement as specified in the *Notice of Serious Deficiency*;
- State that the effective date of the proposed suspension will be 10 days from the date the CE receives the *Notice of Intent to Suspend*, unless the CE requests a review (appeal) of the proposed suspension;
- Include the name, address, and telephone number of the suspension review official (SRO); and
- Specify that if the CE wants to request a review of the proposed suspension, it must submit the request to the address provided and include written documentation opposing the proposed suspension within 10 days of its receipt of the *Notice of Intent to Suspend*.

If the CE appeals the proposal to suspend, the SRO will notify TDA immediately and request all supporting documentation. The SRO must deliver a verdict on the suspension within 10 days of receiving the appeal. If the SRO upholds the suspension, TDA will suspend the CE effective the date the verdict is issued and issue a *Notice of Suspension*.

The *Notice of Suspension* will include the following:

- Notice that TDA is suspending the CE's participation (including Program payments);
- The effective date of the suspension (the date of the suspension review decision);
- The procedures for seeking an appeal of the suspension; and
- That if the administrative review official overturns the suspension, the CE may claim reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

10500 Imminent Threat to Health or Safety

If state or local health or licensing officials have cited a CE for serious health or safety violations that constitute an imminent health or safety threat, TDA will immediately send the CE a *Notice of Suspension, Proposed Termination and Proposed Disqualification for Imminent Threat to Health and Safety*.

This notice will specify:

- That TDA is suspending the CE's participation (including Program payments), proposing to terminate the CE's Permanent Agreement, and proposing to disqualify the CE and the responsible principals and responsible individuals;
- The serious deficiency(ies);
- That voluntarily termination of the CE's Permanent Agreement after the CE receives the Notice will still result in the organization's formal termination and placement of the organization, responsible principals, and responsible individuals on the NDL without further opportunity for corrective action or appeal;
- That the serious deficiency determination is not subject to appeal;
- The procedures for appealing the suspension, proposed termination, and proposed disqualifications; and
- That, if the ARO overturns the suspension, the CE may claim reimbursement for eligible meals served and allowable administrative costs incurred during the suspension period.

The notice will be sent to the:

- Executive Director;
- Chairman of the Board of Directors; and
- Responsible principal(s) and responsible individual(s).

In an appeal based on *Imminent Threat*, the CE, responsible principal(s), and/or responsible individual(s) may appeal any or all three adverse actions:

- Suspension.
- Proposed termination.
- Proposed disqualification.

NOTE: If the CE, responsible principal(s), or responsible individual(s) do not request an appeal within the time allotted in the written notice, TDA will proceed with termination of the Permanent Agreement and disqualification of the CE, responsible principals, and responsible individuals.

If an appeal is requested and the ARO upholds TDA's decision, TDA will send a *Notice of Termination and Disqualification* to the CE, responsible principal(s), and responsible individual(s). The notice informs all parties that the:

- Permanent Agreement is terminated for cause; and
- CE, responsible principal(s), and responsible individual(s) are disqualified and placed on the NDL.

If the ARO overturns TDA's actions, TDA will send a *Notice of Temporary Deferral*. This notice:

- Removes the suspension effective the date of the ARO's decision.
- Informs the CE that the Permanent Agreement will not be terminated.
- Informs all parties that they will not be disqualified.
- Informs the CE that they can claim for eligible meals served and if a day care home sponsor, administrative expenses incurred, during the suspension period.

NOTE: If TDA determines there is an imminent threat to health or safety, TDA will immediately inform the health or licensing authority and take action that is consistent with the authority's recommendation, up to and including suspension of participation and placement in the serious deficiency process as detailed above.

10600 Serious Deficiency Process for Sponsored Sites/Providers

Sponsors of day care home providers, unaffiliated child care centers, At-Risk centers, or Adult Day Care centers must initiate the Serious Deficiency process if they discover that one of their sponsored sites/providers consistently violates Program requirements and/or the violations are severe enough to demonstrate systemic management problems preventing successful operation of the Program.

There are five steps in the serious deficiency process.

Step 1. Serious deficiency determination, the point at which the sponsor determines the site/provider's noncompliance(s) rise to the level of serious deficiency.

Step 2. Notice of serious deficiency, the first notification sent to the site/provider informing them they have been determined seriously deficient.*

Step 3. Opportunity for corrective action, the time given to the site/provider allowing them to fully and permanently correct the serious deficiencies.

Step 4. Notice of proposed termination and disqualification, the second notification sent to the site/provider if they fail to fully and permanently correct the serious deficiencies.* This notice allows the site/provider to appeal the proposed actions.

Step 5. Notice of termination and disqualification, the third notification sent to the site/provider if they fail to appeal the notice of proposed termination and disqualification, or they appeal and the hearings official upholds the sponsor's proposed actions.*

***IMPORTANT:** A copy of each Notice must be sent to TDA at the same time it is sent to the site/provider. For each notice submitted to a site/provider, CEs must complete the CACFP Serious Deficiency Process Notification Form[1] located on the CACFP Administration/Forms[2] page of SquareMeals.org. Notification templates for each of the scenarios presented in this section are also located on the CACFP Administration/Forms page.

All notices must specify the action being proposed or taken and the basis for the action. If the CE fails to send notices to TDA at any point in the process, or if the notice received does not comply with the instructions in this section, TDA will contact the CE and provide technical assistance. TDA may initiate a review of the CE's Serious Deficiency process if there are repeat or egregious non-compliances with the notification process, which could lead to the CE being placed in the SD process.

A notice is considered to be received by the site/provider when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the provider, responsible principal, or responsible individual five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

10610 Serious Deficiency Determination at the Site/Provider Level

Serious deficiencies that could lead to a site/provider's termination and disqualification include:

- Submission of false information on the application.
- Submission of false claims for reimbursement.
- Simultaneous participation under more than one CE.
- Noncompliance with CACFP meal patterns.
- Failure to keep required records.
- Failure to participate in training.
- Conduct or conditions that threaten the health or safety of a child or children in care, or the public health or safety.
- A determination that the site/provider has been convicted of an activity that occurred during the past seven years and that indicated a lack of business integrity. A lack of business integrity includes fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, any other activity indicating a lack of business integrity as determined by TDA, or the concealment of such a conviction.
- Any other circumstance related to non-performance under the Permanent Agreement between the sponsor and the site or provider.

[1] https://app.smartsheet.com/b/form/103aa98098ed46dd99cf62377501905b
[2] https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Administration-Forms

NOTE: This list should not be considered all inclusive.

CEs must use discretion in making a serious deficiency determination.

To appropriately use discretion, CEs must be able to distinguish between:

- Occasional (happened once or infrequently) versus systemic (is ongoing and is a problem that is due to a procedural inadequacy) errors.
- Minor (no or few disallowances) versus major (many disallowances or falsified claims) errors.

CEs should take into account several factors in deciding whether a problem rises to the level of a serious deficiency:

- The severity of the problem
- The degree of responsibility attributable to the provider.
- The provider's history of participation in the Program.
- The nature of the requirements that relate to the problem.
- The degree to which the problem impacts program integrity.

Once a notice of serious deficiency is issued, it can result in only two possible outcomes:

- The site/provider fully and permanently corrects the serious deficiency within the period allotted for corrective action.
- The site/provider does not fully and permanently correct the serious deficiency, and the CE proceeds to proposed termination of the agreement and proposed disqualification of the site/provider.

Once a serious deficiency has been determined, the CE must immediately prepare the *Notice of Serious Deficiency*, which will be distributed to the site/provider **and** TDA via the Serious Deficiency Process Notification Form.

NOTE: Sample letters for each step in the serious deficiency process can be found on the CACFP Administration/Forms page on SquareMeals.org (*CACFP Day Care Home/Unaffiliated Center Serious Deficiency Process Notification Template Letters*). CEs choosing not to use TDA's templates must ensure that all elements within TDA's templates are included in their notices.

10620 Notice of Serious Deficiency

The notice of serious deficiency must specify:

- That the site/provider has been found to be seriously deficient.
- The nature of the serious deficiency(ies).

- The corrective action required to resolve the serious deficiency(ies) and the deadline (not to exceed 30 days) by which the action must be taken.
- That the serious deficiency determination is not subject to appeal.
- That failure to fully and permanently correct the serious deficiency by this deadline will result in:
    - Proposed termination of the site/provider's agreement.
    - Proposed disqualification of the site/provider and its responsible principals/individuals, and placement on the NDL.
- If the site/provider voluntarily terminates the agreement after it receives the serious deficiency notice, the CE will terminate the site/provider's agreement, disqualify the site/provider and its responsible principals/individuals, and place the site/provider and its responsible principals/individuals on the NDL.

Remember that a copy of this notice must be sent to TDA at the same time it is sent to the provider via the CACFP Serious Deficiency Process Notification Form.

10630 Opportunity for Corrective Action

Sites/Providers are allowed up to 30 days to correct a serious deficiency. CEs may not allow a site/provider additional time.

EXCEPTION: Sites/Providers are not given an opportunity for corrective action in the case of imminent threat to the health or safety of participants or the public. Refer to Item 10660 below for additional information.

Corrective action must include the following:

- Site/Provider's full name, address, and date of birth (if the CE does not already have the current information for the provider),
- A detailed description of how each serious deficiency was fully and permanently corrected, including:
    - Who addressed the serious deficiencies? List personnel responsible for this task.
    - What procedures were implemented to address each serious deficiency listed? Please provide those procedures with your plan.
    - When were the procedures for addressing the serious deficiencies implemented (must be prior to prescribed due date listed in the notification letter)?
    - How often will these procedures be used to ensure that the management problem does not reoccur (for example, daily, weekly, monthly, or annually)?
    - Where will this corrective action plan, associated procedures, and associated supporting documentation be stored?
- Any supporting documentation in addition to procedures that support full correction of the issue.

Evaluating the acceptability of corrective action

Upon receipt of a site/provider's corrective action, the CE must review it to determine if it contains all required information **and**, if implemented as written, has or would correct all noncompliance(s) and prevent them from occurring in the future (full and permanent corrective action).

NOTE: An assurance from a site/provider that it will comply with all requirements from now on would not be acceptable corrective action.

Whenever feasible, CEs should make onsite visits to verify and evaluate the implementation and effectiveness of the site/provider's corrective action.

If the site/provider fully and permanently corrects the serious deficiency within the time allowed for corrective action, send a *Notice of Accepted Corrective Action and Serious Deficiency Temporary Deferral* to the site/provider, with a copy to TDA, stating that the serious deficiency determination has been temporarily deferred due to the site/provider's successful corrective action.

Remember that a copy of this notice must be sent to TDA at the same time it is sent to the provider via the CACFP Serious Deficiency Process Notification Form.

If the site/provider fails to take corrective action, or the corrective action does not fully and permanently correct the serious deficiency(ies), the site/provider must be sent a *Notice of Proposed Termination and Proposed Disqualification*, with a copy to TDA. Do not send the *Notice of Proposed Termination and Proposed Disqualification* until after the period allowed for corrective action has expired.

False or fraudulent claims

CEs may not suspend the participation of a site/provider based on a determination that the provider submitted false or fraudulent claims. The corrective action period allows the site/provider time to demonstrate that:

- An administrative error was made.
- The CE confused two sites/providers with similar or identical names.
- The information submitted by the site/provider was not, in fact, false.
- Any other corrective action deemed acceptable.

In addition to declaring the site/provider seriously deficient and offering a brief period for corrective action, CEs must deny the portion of the claim which is false or fraudulent. CEs must never reimburse sites/providers for invalid claims.

If disallowances are taken, repayment of the funds to the sponsor[3] must be part of the corrective action. The serious deficiency determination is not subject to appeal. However, the site/provider

[3] Any funds repaid to a sponsor for invalid claims must subsequently be returned to TDA.

may appeal the disallowances, and the CE must include appeal rights in any notice requiring the repayment of funds.

10640 Notice of Proposed Termination and Proposed Disqualification

If the site/provider does not submit corrective action, or if the CE determines that the corrective action submitted does not fully and permanently correct the noncompliance(s) (either in the site/provider's proposed plan or after a follow-up review of plan implementation), the CE must immediately send the notice of proposed termination and proposed disqualification, with a copy to TDA via the CACFP Serious Deficiency Process Notification Form.

This notice must:

- State that the CE is proposing to terminate the site/provider's agreement for cause and proposing to disqualify the site/provider for placement on the NDL.
- State that these actions are being taken due to the site/provider's failure to correct the serious deficiency.
- Inform the site/provider that it may appeal the proposed termination and proposed disqualification, and provide the appeal procedures.
- Inform the site/provider that it can continue to participate and receive Program reimbursement for eligible meals served until the appeal process is concluded.[4]
- Inform the site/provider that if it voluntarily terminates the agreement after receiving the notice, it will be disqualified and placed on the NDL.

The effective date of the proposed termination and proposed disqualification must be no earlier than 30 days from the date of the letter.

If the site/provider appeals the *Notice of Proposed Termination and Proposed Disqualification* and the action is overturned, the site/provider must be sent a *Notice of Serious Deficiency Temporary Deferral, Following Successful Appeal of Proposed Termination and Proposed Disqualification*, with a copy to TDA via the CACFP Serious Deficiency Process Notification Form. The effective date of the temporary deferral is the date of the hearing official's decision.

10650 Notice of Termination and Disqualification

If the site/provider fails to appeal the *Notice of Proposed Termination and Proposed Disqualification*, or if the hearing official rules in the CE's favor, the site/provider must be sent a *Notice of Termination and Disqualification*, with a copy to TDA via the CACFP Serious Deficiency Process Notification Form. Do not give appeal rights.

If the site/provider does not appeal, the effective date of the termination and disqualification is the date in the *Notice of Proposed Termination and Proposed Disqualification* letter. If the

[4] Note that if the site/provider is being placed in the serious deficiency process for imminent threat to health or safety of a participant, all payments must be suspended to the site. In that instance, a combined Notice of Serious Deficiency, Suspension, Proposed Termination, and Proposed Disqualification is sent to the site/provider. See Section 10660 for more information.

site/provider appealed and the action is upheld, the effective date is the date of the hearing official's decision.

At this step of the serious deficiency process, the CE must "close" the site/provider's participation in the CACFP via TX-UNPS.

10660 Suspension of Site/Provider Participation due to Imminent Threat to Health or Safety

If state or local health or licensing officials have cited a site/provider for serious health or safety violations that constitute an imminent health or safety threat, the sponsor must immediately send the site/provider a *Notice of Serious Deficiency, Suspension, Proposed Termination and Proposed Disqualification for Imminent Threat to Health and Safety*, with a copy to TDA via the CACFP Serious Deficiency Process Notification Form.

This notice must:

- Notify the site/provider that its participation in the CACFP has been suspended, including all payments.
- State that the site/provider has been determined to be seriously deficient, and that the CE is proposing to terminate the Provider's agreement for cause and disqualify the site/provider, including the effective date.
- Specify the serious deficiencies that constitute the imminent threat.
- Include the procedures for the site/provider to appeal the suspension and the proposed actions.
- State that the suspension, including all CACFP payments, will remain suspended until the appeal process is concluded, if the site/provider appeals.
- Inform the site/provider that if the hearing official overturns the suspension, the site/provider may claim reimbursement for eligible meals served during the period of suspension.
- Inform the site/provider that termination will result in disqualification.
- State that if the site/provider voluntarily terminates its agreement after receiving this notice, the site/provider will be disqualified and its name and all responsible principals and individuals will be placed on the NDL.

An imminent threat to health or safety requires the immediate suspension of a site/provider without the opportunity for corrective action.

If the site/provider appeals and loses, send the provider a *Notice of Termination and Disqualification* informing the provider that:

- The site/provider's agreement is terminated for cause.
- The site/provider is disqualified and placed on the NDL.

If the site/provider appeals, and the CE's actions are overturned, send the site/provider a *Notice of Serious Deficiency Temporary Deferral and Suspension Rescission Following Successful*

Appeal of Suspension, Proposed Termination, and Proposed Disqualification informing the site/provider that:

- The suspension ended on the date of the hearing official's decision.
- The site/provider's agreement will not be terminated.
- The site/provider will not be disqualified and may claim for eligible meals served during the suspension period.

Send a copy of the *Notice of Termination and Disqualification* or *Notice of Serious Deficiency Temporary Deferral and Suspension Rescission Following Successful Appeal of Suspension, Proposed Termination, and Proposed Disqualification* to TDA via the CACFP Serious Deficiency Process Notification Form.

NOTE: If a CE determines there is an imminent threat to health or safety in a day care home, it must immediately inform the health or licensing authority and then take action that is consistent with the authority's recommendation. Follow the procedures outlined above as applicable.

10700 Removal from the National Disqualified List

Organizations, responsible principal(s), and responsible individual(s) that are disqualified from participation in the CACFP are placed on the NDL and will remain on the list for a minimum of seven years from the date of disqualification unless a debt is owed under the CACFP, in which case they will remain on the list until the debt has been repaid.

NOTE: Due to the egregious nature of certain activities, TDA will not consider a request for early removal of an organization or individual who was disqualified for falsification of records, making false representations, making false claims, engaging in an unlawful practice, or any other activity indicating a lack of business integrity as determined by TDA.

For disqualifications because of other serious deficiencies that do not indicate a lack of business integrity, organizations and individuals may submit a request to be removed from the NDL before the seven years have elapsed. However, note that:

- Submission of a request does not guarantee the request will be approved
- Denial of a request for early removal is not subject to appeal; and
- Approval of a request for early removal does not equal approval to participate in the CACFP. A new application for participation in the program must be submitted and processed in accordance with TDA's application process.

For a request to be considered, the organization, responsible principal(s), or responsible individual(s) must submit the following to TDA:

- Corrective action that includes:
  - **An acceptable Corrective Action Plan (CAP):** The organization, principal(s), or individual(s) must submit an acceptable CAP outlining the actions that will be taken or have been taken to correct the serious deficiencies that caused placement on the NDL. If TDA rejects the CAP, this action cannot be appealed.

- **Any outstanding audits:** If the serious deficiency(ies) include failure to submit an acceptable audit, the organization must submit an audit that complies with Single Audit requirements or for-profit audit requirements that were in effect at the time the audit was originally due. Corrective action must also include a plan to address any deficiencies identified in the audit.
- **All outstanding funds owed:** If the organization has an outstanding debt for a previous CACFP claim, adjusted claim, advance overpayment, or audit finding, the debt must be repaid, including interest.
- **One of the following:**
  - An explanation, setting forth detailed, objective, verifiable facts, indicating why the principal(s) or individual(s) identified as being responsible for the serious deficiency(ies) should now be eligible to participate in the CACFP, if the person or persons are requesting removal.
  - A statement that the principal(s) identified as being responsible for the serious deficiency(ies) are no longer principals in the organization, if they are not included in the request for removal.
  - A statement that the individual(s) identified as being responsible for the serious deficiencies do not perform any tasks related to the CACFP, or are no longer employed by the organization, if they are not included in the request for removal.

Requests for removal, including required documentation, should be submitted via the Removal Request Form - National Disqualified List or Texas Excluded Summer Food Service Program List located on SquareMeals on the National Disqualified List / Texas Excluded Summer Food Service page (https://squaremeals.org/FandN-Resources/National-Disqualified-List).I

Requests may also be submitted via letter to:

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

Or via overnight delivery to:

Texas Department of Agriculture
Food and Nutrition
Attn: Community Operations, 10th Floor
1700 N Congress Avenue
Austin, Texas 78701

If TDA determines that the organization, principal(s), and/or individuals have taken corrective action to fully and permanently correct the serious deficiencies, an assessment will be forwarded to USDA.

USDA will determine, in consultation with TDA, if the organization, principal(s) and/or individuals will be removed from the NDL. TDA will notify the organization and responsible principals and individuals of USDA's decision.

If either TDA or USDA does not accept the corrective action and decides to retain the organization, responsible principal(s) or responsible individual(s) on the NDL, the decision may not be appealed.

Section 11000 Resources

Log of Section Updates

This table will reflect ongoing updates to the handbook. All rows highlighted in yellow reflect the changes made in the latest released version.

Date of Edit	Content/Purpose	Subsection(s)
11-15-2024	Removed the sample prototypes that sponsors of day care home providers use to send official notices to providers during the SD process. These letters have been consolidated into a suite of user-friendly Word templates available on the CACFP Administration/Forms page of SquareMeals.org. The letters have been modified so that they can be used by sponsors of unaffiliated centers.	11600
	Reformatted and renumbered sections.	N/A

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11100 Administration

11110 Education Service Center Offices

Additional information about Education Service Centers is available on TDA's SquareMeals website at: **https://squaremeals.org/About/EducationServiceCenters.aspx**

Region 1
Edinburg
FAX (956) 984-7602
(956) 984-6000
1900 West Schunior
Edinburg, Texas 78541

Region 2
Corpus Christi
FAX (361) 561-8649
(361) 561-8400
209 N Water Street
Corpus Christi, Texas 78401

Region 3
Victoria
FAX (361) 576-4804
(361) 573-0731
1905 Leary Lane
Victoria, Texas 77901

Region 4
Houston
FAX (713) 744-2731
(713) 744-8162
7145 West Tidwell
Houston, Texas 77092

Region 5
Beaumont
FAX (409) 951-1821
(409) 951-1700
350 Pine Street, Suite 500
Beaumont, Texas 77701

Region 6
Huntsville
FAX (936) 435-8482
(936) 435-8400
3332 Montgomery Road
Huntsville, Texas 77340

Region 7
Kilgore
FAX (903) 988-6860
(903) 988-6700
1909 North Longview Street
Kilgore, Texas 75662

Region 8
Mt. Pleasant
FAX (903) 575-2610
(903) 572-8551
Mailing: P.O. Box 1894
Pittsburg, Texas 75456
Physical: 4145 US Highway 271 North, Mt. Pleasant, Texas 75686

Region 9
Wichita Falls
FAX (940) 767-3836
(940) 322-6928
301 Loop 11
Wichita Falls, Texas 76306

Region 10
Richardson
FAX (972) 348-1387
(972) 348-1700
400 E. Spring Valley
Richardson, Texas 75081

Region 11
Ft Worth
FAX (817) 740-3601
(817) 740-3600
1451 S. Cherry Lane
White Settlement, Texas 76108

Region12
Waco
FAX (254) 666-0696
(254) 297-1212
Mailing: P.O. Box 23409
Waco Texas 76702
Physical: 2101 W Loop 340
Waco, Texas 76712

Region 13
Austin
FAX (512) 919-5430
(512) 919-5313
5701 Springdale Road
Austin Texas 78723

Region 14
Abilene
FAX (325) 675-8659
(325) 675-8600
1850 State Highway 351
Abilene Texas 79601

Region 15
San Angelo
FAX (325) 655-4823
(325) 658-6571
Mailing: P.O. Box 5199
San Angelo Texas 76902
Physical: 612 South Irene Street, San Angelo 76903

Region 16
Amarillo
FAX (806) 677-5001
(806) 677-5000
5800 Bell Street
Amarillo Texas 79109

Region 17
Lubbock
FAX (806) 799-8630
(806) 281-5803
1111 W. Loop 289
Lubbock Texas 79416

Region 18
Midland
FAX (432) 567-3290
(432) 563-2380
Mailing: P.O. Box 60580
Midland Texas 79711
Physical: 2811 LaForce Blvd.

Region 19
El Paso
FAX (915) 780-6537
(915) 780-1919
6611 Boeing Drive
El Paso, Texas 79925

Region 20
San Antonio
FAX (210) 370-5754
(210) 370-5659
1314 Hines Avenue
San Antonio Texas 78208

11120 Sample Forms

11121 Sample Time Distribution Report

This sample report is designed for employees who are not 100% dedicated to CACFP functions and must document the distribution of time between CACFP functions and non-CACFP functions.

IMPORTANT:

- Employees that are 100% dedicated to CACFP functions **may** sign and date an attestation every six months affirming their time allocation in lieu of a daily time distribution report/form.
    - 100% dedicated CACFP employees **must** still document allocation of time between administrative and operational tasks.
- 100% dedicated employees with a fixed allocation between administrative and operational tasks **may** attest to this every six months.
    - If the allocation is not fixed, 100% dedicated employees **may** use the (Sample) Time Distribution Report form, or an alternative reporting method containing the same data points to document their time breakdown between operational and administrative hours.
- Time and attendance sheets documenting start times, end times, and absences <u>**must** be completed and available for review (upon request) for **all** employees, regardless of time allocation</u>.
    - The employee **must** sign and date each of their own time and attendance sheets.
        - Electronic time and attendance reporting **must** allow for staff to sign off on their reported time and attendance regularly (at least monthly) and contain a statement confirming the accuracy of the time and attendance reported.

[See next three pages for form and instructions.]

Employee Name	Position	Normal Work Hours	Month/Year

	WORK HOURS (INCLUDE AM/PM)		**FOOD SERVICE ADMINISTRATION TASKS**			**FOOD SERVICE OPERATIONS TASKS**						
Day	Start	End	A. Managing	B. Planning	C. Organizing	D. Menu Planning	E. Meal Prep/Serve	F. Meal Clean-Up	G. Supervise Meal	H. Meal Records	I. Non Food Service	J. Total Hours
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
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21												
22												
23												
24												
25												
26												
27												
28												
29												
30												
31												
Monthly Totals												

Total Food Service Hours____________ + Total Non-Food Service Hours ___________ =
Total Hours Worked _________

I certify that all information is true and correct.

_______________________________________ ____________________

Signature – Employee **Date**

Approval: ____ ____________________ **Signature – Supervisor** **Date** **Form Revised November 2022**

Instructions – (Sample) Time Distribution Report

PURPOSE

To document the time spent performing Food Service and Non-Food Services tasks for each day of the month worked, as well as the allocation between operational and administrative CACFP functions. This information is used to establish the portion of costs that may be claimed as Food Service labor.

PROCEDURE

When to Prepare

Full-time and part-time employees who split time between CACFP functions and non-CACFP functions must complete this form, or a similar form capturing the same data points. Employees that are 100% dedicated to CACFP functions may use this form to document time spent between operational and administrative tasks if the allocation is not fixed. Employees with fixed time allocations may sign an attestation every six months in lieu of completing this report. The information submitted in this form must account for the total activity for which each employee is compensated. The reports must reflect an after-the-fact determination of the actual activity of each employee. Each employee must be reported separately.

Number of Copies

Complete and maintain one original for each employee for each month.

Transmittal

Keep the completed and signed form in your files.

Form Retention

Keep the Time Distribution Report for three (3) years from the end of the contract period. Exception: If audit findings, claims, or litigation have not been resolved by the end of the retention period, all forms and records must be kept until final resolution.

DETAILED INSTRUCTIONS

Employee Name – Enter the name of the employee whose time distribution is being recorded.

Position – Enter the title of the position for this employee.

Normal Work Hours – Enter the normal start and end time for this employee.

Month/Year – Enter the month and the year covered by this time distribution report.

Day – No entry is required. This column indicates that day of the month.

Work Hours – The employee enters the start and end time for each workday, including AM/PM of hours entered. More than one time may be entered if the employee has a break in work hours other than normal lunch and break times.

Food Service Administrative Tasks and Food Service Operational Tasks – The employee enters the time spent performing Food Service tasks in the column that best describes the nature of the activity. Time must be reported in 15-minute intervals. Employees should round up or down to the nearest half-hour. This should reflect an after-the-fact determination of the actual time spent in each activity.

Non-Food Service – The employee enters the amount of time spent performing tasks that ARE NOT related to the administration or operation of the Food Service. Time must be reported in 15-minute intervals. Time should be rounded up or down to the nearest half-hour. This should reflect an after-the-fact determination of the actual time spent in each activity.

Total Hours – The employee enters the total number of hours worked that day. It should agree with the total of the hours entered under the task columns.

Monthly Total – Enter the total time spent performing the task identified in each column.

Total Food Service Hours – Enter the total of columns A, B, C, D, E, F, G, and H.

Total Non-Food Service – Enter the total time noted in column I.

Total Hours Worked – Enter the total hours worked during the month. This entry should agree with the total of column J.

Signature and Date–Employee – The employee must sign and date the document to certify that all information is true and correct.

Signature and Date–Supervisor – The employee's supervisor must sign and date the document to show approval of the form.

11122 Field Trip Food Service Documentation

1. Contracting Entity (CE) Name:	2. Site Name:	3. CE ID:
4. Destination/City/State:	5. Date of Trip:	6. Departure Time: 7. Return Time:

8. Field Trip Meal Service	
Meal Type (s): _ B _ A _ L _ P _ S _E	Where were the meals served?
Describe the method used to ensure transported foods were held at proper temperatures:	

9. MENU SERVED ON FIELD TRIP			
Menu I		Menu II	
Milk:	Meat:	Milk:	Meat:
Vegetable:	Bread:	Vegetable:	Bread:
Fruit:	Other:	Fruit:	Other:

10. FIELD TRIP ATTENDANCE		
Name of Participant	Name of Participant	Name of Participant
1.	10.	19.
2.	11.	20.
3.	12.	21.
4.	13.	22.
5.	14.	23.
6.	15.	24.
7.	16.	25.
8.	17.	26.
9.	18.	27.

11. I certify that to the best of my knowledge, the information reported on this form is true and correct. I understand misrepresentation may result in prosecution under applicable state or federal laws. I certify that all meals were prepared, delivered and served in accordance with state and local health department standards.

SIGNATURE OF EMPLOYEE DATE OF SIGNATURE

Instructions – Field Trip Food Service Documentation Form

PURPOSE

To document field trip food service in child and adult care centers, and day care homes.

PROCEDURE

When to Prepare

Contracting Entities (CEs) and sites must maintain documentation of meals served on field trips according to program requirements. This is an optional form CEs and sites may use to document field trips. This form, if fully completed, contains all elements that are required to document field trips. Required documentation of field trips must be completed on the day of the field trip.

Number of Copies

Complete one form for each field trip and for each meal type claimed.

Transmittal

Forms are retained in the CE's and site's files.

How to Obtain Copies

Reproduce this form as necessary.

Retention

CEs and sites must keep documentation of meals served on field trips for three (3) years from the end of the program year. **Exception:** If audit findings, claims, or litigation have not been resolved by the end of the retention period, all forms and records must be kept until final resolution.

DETAILED INSTRUCTIONS

Information contained on this form does not replace the requirement that CEs and sites document meal counts and attendance on the *Daily Meal Count and Attendance Record* (H1535 for child and adult care centers and emergency shelters, or H1535-AT for At-risk afterschool care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate, or the requirement that CEs and sites document daily meal production records that include the food items and amounts of food used on the *Daily Meal Production Record* (H1530 for children and H1530-A for infants at centers and emergency shelters, H1654 for adult day care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate.

1. Contracting Entity (CE) Name — Enter the name of the Contracting Entity.

2. Site Name — Enter the name of the child care center, adult day care center, or day care home provider.

3. CE ID — Enter the Contracting Entity's TX-UNPS CE ID.

4. Destination — Enter the destination of the trip.

5. Date of Trip — Enter the month, day, and year of the field trip.

6. Departure Time — Enter the time of departure for the field trip.

7. Return Time — Enter the return time from the field trip.

8. Field Trip Meal Service — Enter the requested information for meal service.

BALPSE — Check the appropriate box to indicate the meal type(s) served on the field trip. B = Breakfast, A = A.M. Snack, L = Lunch, P = P.M. Snack, S = Supper, E = Evening Snack.

Where Meal Was Served — Indicate the location where the meal was served on the field trip. For example: a park, picnic area, shopping mall, another center, etc.

Transportation Method — Describe how the food was transported and how the food was held at proper temperatures.

9. Menu Served on Field Trip — Enter the individual food components served. This is not a meal production record. Meal production records for foods served on field trips must be completed.

10. Field Trip Attendance — Enter the requested information for field trip attendance. This is not a meal count. Meal counts for meals served on field trips must be completed on the *Daily Meal Count and Attendance Record* (H1535 for child and adult care centers and emergency shelters, or H1535-AT for At-risk afterschool care centers), *Daily Meal Count, Attendance, and Meal Production Record* (H1539 for day care homes), or alternate.

Name of Child — Enter the name of each program participant who attended the field trip.

11. Signature and Date of Signature — The person completing the form must sign and date the form, certifying that the information reported on the form is true and correct to the best of his or her knowledge.

11123 Statement of Child's Enrollment Examples

The following sample forms may be used in child care centers and day care homes.

11123.1 Even Start Family Literacy Program

Example:

Statement of Child's Enrollment in the Even Start Family Literacy Program

This is to verify that ______________________________ is currently enrolled as a participant in

(Name of child)

in the Even Start Family Literacy Program and that the child has not yet entered kindergarten.

____

Name of Even Start Program

____ ____________________

Signature of Even Start Program Director or Official Date

11123.2 Head Start Program

Example:

Statement of Child's Enrollment in the Head Start Program

This is to verify that ______________________________ is currently enrolled as a participant in

(Name of child)

the Head Start Program provided by _________________________.

(Name of Head Start Program)

____-
_____ ____________________

Signature of Head Start Program Director or Official Date

11123.3 Early Head Start Program

Example:

Statement of Child's Enrollment in the Early Head Start Program

This is to verify that ______________________________ is currently enrolled as a participant in

(Name of child)

in the Early Head Start Program provided by ________________________________.

(Name of Early Head Start Program)

____ ________ ____________________ __

Signature of Early Head Start Program Director or Official Date

11130 Licensing (HHSC/DFPS) – Sample print screen

Child Care Search Result Details

TEXAS Health and Human Services | Texas Department of Family and Protective Services

Child Care Search Result Details

Operation Details

You may click on the question mark image (?) to view the Frequently Asked Questions (FAQ) page.

Operation Number:	888665
Operation Type:	Licensed Child-Care Home
Operation/Caregiver Name:	Happy Times Home Child Care
Location Address:	1234 Sunny Hill Sunshine, TX 77595
Mailing Address:	
Phone Number:	512-867-5309
County:	TRAVIS
Website Address:	
Email Address:	merryhappy@sunny.com
Administrator/Director Name:	Merry Happy
Type of Issuance: ?	Full Permit
Issuance Date:	10/1/2006
Conditions on Permit: ?	No
Accepts Child-Care Subsidies: ?	
Hours of Operation:	06:30 AM-06:00 PM
Days of Operation:	Monday - Friday
Total Capacity:	12
Licensed to Serve Ages:	Infant, Toddler, Pre-Kindergarten, School
Total Capacity:	12
Number Of Admin Penalties:	0
Corrective Action: ?	No
Adverse Action:?	No
Temporarily Closed:	No

http://www.dfps.state.tx.us/Child _Care/Search_Texas_Child_Care/ppFacilityDetails.asp?pt... 6/9/2017

1

11140 Verifying Day Care Home Provider's Income

11141 Via IRS Form 1040

In the CACFP for Day Care Homes, all providers' households will include at least one self-employed person - the provider. Because of difficulties that may exist in verifying income for self-employed persons, Internal Revenue Service (IRS) Form 1040 may be a good source for verifying a provider's household income.

When Is It Appropriate/Not Appropriate To Use IRS Form 1040? — IRS Form 1040 is an excellent tool for sponsors to use in verifying the income of the provider's household members who are self-employed. Because providers are self-employed, these individuals will lack the normal documentation of earnings (such as wage stubs or other records of pay) that are readily available to most wage earners. Although the use of the prior year's tax form to verify self-employment income does not provide information which is as current as a biweekly pay stub for a wage earner, it often represents a reasonable estimate of a day care provider's current income.

In some cases, however, a provider's household income may have changed significantly between the end of a tax year and the time when the provider applies for Tier I status based on their household income. In such circumstances, it may be necessary for a sponsor to utilize sources other than, or in addition to, Form 1040 to verify current household income.

If, for example, there were two income earners in a household, Form 1040 would not be useful as the sole source for verification if either person's income had changed substantially. Other examples of such circumstances could include:

Change in Household Composition - The household's composition has changed since the end of the prior tax year, due to a spouse's death or a change in marital status. In this case, Form 1040 might still be an accurate representation of the remaining spouse's income, but the other spouse's income from the prior tax year would have to be excluded. In calculating and verifying current household income in such instances, please remember that losing some type of income may be at least partially replaced by other sources of income (e.g., separation or death will cause the loss of spousal income but may be at least partially offset by other sources of income, such as child support, alimony, or survivor's benefits).

Change in Household Income - Household income has changed markedly due to one member's loss or gain of regular employment. (Here, too, it is important to remember that Form 1040 may still serve as verification of income for another household member whose circumstances may not have changed, and that at least some portion of lost income may be offset by welfare benefits, unemployment compensation, or the like.)

Change in Provider's Income - The provider's own income has changed because of gaining or losing children in day care. In this situation (where the sponsor should already be aware of this change because of changes to the provider's enrollment and meal claims), a reasonable attempt should be made to use Form 1040 (and attached forms showing business expenses) as a basis for calculating the provider's new income for verification purposes.

For example, the current income of a provider whose prior year earnings were based on providing care for two children for the entire year might reasonably be estimated to have doubled if the provider added two day care children on January 1st. However, sponsoring organizations are not expected to sort through boxes of receipts or to retain the services of tax consultants for the purpose of determining the provider's current household income. In some cases, such as when the provider has added several day care children with variable hours of care, it may be advisable for the sponsor to require the provider to fill out an estimate of his/her current year income and expenses on Schedule C of Form 1040 ("Profit or Loss from Business") or some similar statement of earnings and expenses.

Unemployment - A new day care home provider who was unemployed or employed in different pursuits in the prior year. In this case, IRS Form 1040 would not serve as a useful tool for verifying provider income (though it might, in some circumstances, verify other household members' income).

Finally, when using Form 1040 for verification, sponsoring organizations should take care to ensure that the entire household's income is reflected in the prior year's Form 1040. If, for example, the provider has used filing status "3" (Married, filing Separately), the sponsor would also have to review Form 1040s for other income holders in the household.

How to Use IRS Form 1040 to Verify a Provider's Household Income – The IRS and the CACFP define income differently; therefore, there is not a single line on Form 1040 that adequately captures "household income" for CACFP purposes. Although losses from self-employment, farming, other businesses, etc., and deductions from IRAs, pensions, and Social Security distributions are allowed for IRS purposes, they are not allowed for the CACFP. Business losses cannot be deducted when determining household income. For CACFP purposes, the income of a household member reporting a loss must be treated as "zero income."

Example: A provider's spouse reports earnings of $30,000 and the self-employed provider reports a business loss of $5,000 (-$5,000) on Form 1040. Although IRS would allow the provider's business loss to be deducted from the spouse's income to determine their total income ($30,000 - $5,000 = $25,000 total income), the CACFP does not allow the provider's business loss to be deducted from the spouse's income. The CACFP considers the provider's income to be "0" not "-$5,000"; therefore, the household income for CACFP purposes is $30,000, not $25,000.

If you use Form 1040 to verify a provider's household income, you must always look at lines 7-22 of Form 1040 and:

- Treat all negative numbers reported on lines 12, 13, 14, and 18 as "zero income," NOT as losses.
- Use the income reported on lines 15a, 16a, and 20a, NOT the adjusted income reported on lines 15b, 16b, and 20b.
- Calculate the total household income by adding lines 7-11, 17, 19, and 21, any positive numbers (gains) reported on lines 12, 13, 14, and 18, and the distributions reported on lines 15a, 16a, and 20a.

Record Retention – You must retain copies of IRS forms and any other information you used to verify a provider's household income for 3 years from the end of the program year.

11142 Without IRS Form 1040 – Sample Worksheet

WORKSHEET TO DETERMINE CURRENT MONTHLY INCOME *(without a tax return)*		
Last Month's Gross Income of a Provider		
Parent fees (provide copy of payment records)	$	
Other Child Care income (i.e., funded day care)	$	
Other income (if applicable)		
Salary received from outside employment	$	
Child Support (provide copy of court decree)	$	
Other	$	
CHILD AND ADULT CARE FOOD PROGRAM *The amount of reimbursement from last month (if applicable)*	**$**	
GRAND TOTAL OF PROVIDER INCOME		$
Last Month's Business Expenses of Provider *(You must attach itemized receipts for any expense you wish deducted)*		
Day Care Home food & food-related supplies	$	
Day Care business-related expenses	$	
Advertising	$	
Toys/Books/Art supplies	$	
Bank/Legal Fees	$	
Utilities (% Time & Space % age)	$	
Child Care Supplies (diapers, clean-up supplies)	$	
Mileage (miles from log x state rate)	$	
Other	$	
GRAND TOTAL OF ALL BUSINESS EXPENSES		$

______________ - ______________ = ______________

GROSS INCOME — BUSINESS EXPENSES — CURRENT NET INCOME "provider only"

11200 Training

Training is an organized, instructional activity designed to develop the skills and knowledge necessary for CEs to understand and comply with Program requirements and to improve the nutrition of the children and adults participating in the USDA nutrition programs they offer. The F&N Training Unit conducts both **nutrition** and **Program** training.

11210 Training Registration

Information on training sessions, for both general nutrition education and program-specific courses, is available at the TDA web site at http://www.squaremeals.org and click on "F&N Resources" and then select training.

Online trainings are available on a variety of topics and can be accessed at any time. Any mandatory trainings will produce a notice of training completion after the participant successfully completes the course. Optional trainings do not produce such a notice but can be documented, as necessary, to meet training requirements.

Training events are scheduled throughout the state each year, typically hosted by the Education Service Centers (ESCs). Although TDA and USDA have not established an annual nutrition training requirement, TDA may implement such requirements in the future.

11220 Sample Training Documentation

This is a sample of a form the F&N Education Unit uses to sign in attendees at a training event to confirm that a registered participant attended and completed the training.

Child and Adult Care Food Program
Training Registration and Activity Report
For Contracting Entity Staff

Contracting Entity Name:	CE ID:	Date:
Location of Training:	Instructor(s):	
Training Topic(s):		

First and Last Name of Participant (Please print name clearly)	**Position**	**Signature of Participant**

11230 USDA Team Nutrition Materials

TDA wants to ensure that all CEs and sites participating in the CACFP have copies of all the Team Nutrition technical assistance and support materials available to them. These items include:

Team Nutrition Technical Assistance and Support Materials

- The *Food Buying Guide for Child Nutrition Programs*, which provides important yield information necessary to ensure CEs and sites are meeting the meal pattern requirements for compliance with the CACFP. To view and/or print a copy of the *Food Buying Guide for Child Nutrition Programs*, go to https://foodbuyingguide.fns.usda.gov.
- *Grow it, try it, like it!* (https://fns-prod.azureedge.net/sites/default/files/resource-files/GTLI17ALL.pdf) which contains garden themed education kit with hands on planting activities.

Team Nutrition Posters

The following posters, as well as others, can be ordered from Team Nutrition:

- *MyPlate for Kids: Make Half your Plate Fruits and Vegetables*
- *Eat Smart to Play Hard*

To order Team Nutrition materials, visit the Team Nutrition website at:

http://teamnutrition.usda.gov/.

11240 Institute of Child Nutrition (ICN) Resources and Training

The Institute of Child Nutrition (ICN) provides online CACFP resources and training. Visit their website at theicn.org.

11300 Other Resources

11310 Other Child Nutrition Publications

The TDA website at http://www.squaremeals.org offers many posters, publications, menu planners, videos, and contests for kids, information for parents, educational materials for child nutrition professionals, and links to other nutrition-oriented sites. All publications are available for free download or can be ordered through the site at no charge while supplies last.

11320 Sample Agreement – Donation of Excess Meals

NOTE: Donation of excess meals is not allowed for day care homes.

Begin sample:
THIS AGREEMENT is made and entered into this (day) ______ of ____ (month) ____, (year) ____, between ________________________________ hereinafter referred to as the "Agency,"
(homeless shelter, food bank, food pantry)
and _________________________, hereinafter referred to as the "Center."
(CACFP Contracting Entity or Site)

WHEREAS the Agency is a nonprofit agency qualified to distribute food to needy persons in the community.
The parties hereby agree as follows:

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

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

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

NOTE: Include date and signature lines for each party if utilizing this sample agreement.

11400 Menu Planning

Below are resources to assist in planning healthy snacks and incorporating fruits and vegetables into menus.

http://teamnutrition.usda.gov/

http://www.health.gov/dietaryguidelines/

11410 USDA, Agricultural Research Service (ARS) National Nutrient Database for Standard Reference

Using the online USDA, ARS National Nutrient Database for Standard Reference to convert Nutrient Values per Portion Size of Breakfast Cereals

1. Go online to access the most current version of the ARS National Nutrient Database for Standard Reference at: https://data.nal.usda.gov/dataset/usda-national-nutrient-database-standard-reference-legacy-release#

2. Using the search function, type in the key word "cereals" to pull up all the cereal selections or enter a specific cereal you are looking for, then click "submit."

3. Choose one cereal by clicking on the button to the left of the product you wish to select (the button will be filled in to show that you have selected). Only one selection is permitted. If you want data for a ready-to-cook cereal, make sure you select the cereal option described as dry, e.g., cereals, oats, dry. Click on "submit" which is at the bottom of the product list.

4. Select the quantities and units you want data for and click submit (one or more selections are permitted):

   a. **Ready-to-eat cereals**

      You will need to select both 1 oz and ¾ cup measures to determine which serving size weighs less. (If volume data is not available, use the manual conversion method shown in attachments B and C.)

      i. *Review nutrient data for one ounce (28.35 grams) of cereal*: Select 100 grams as the description, change 1.00 (100 grams) to 0.2835 (100 grams), **and**

      ii. *Review the nutrient data for ¾ cup (0.75 cup) of cereal*: Select the description measured in cups. The volume unit may be different depending on the cereal. If the unit is 1.00 (.75 cup), keep as 1.00 (.75 cup). If the unit is 1.00 (1 cup), change to 0.75 (1 cup). If the unit is 1.00 (.5 cup), change to 1.5 (.5 cup). If the unit is 1.00 (? cup), you will need to determine what number or fraction ¾ cup is of the unit provided in parentheses and change 1.00 to the number or fraction required to obtain ¾ cup.

iii. *Click "submit"*

b. **Ready-to-cook cereals, dry**

i. *Review the nutrient data for 25 grams of dry cereal*: Select 100 grams as the description. Change 1.00 (100 grams) to 0.25 (100 grams). Make sure this option is selected.

ii. *Click "submit"*

5. Compare the nutrient profile provided for the cereal to the FNS Nutrient Criteria for Breakfast Cereals.

a. **Ready-to-eat cereals:**

The nutrient profile will show the amounts for 28.35 grams (1 ounce) *and* for ¾ cup. The gram weight for ¾ cup will appear in the heading. Since cereals are credited 1 ounce or ¾ cup, whichever amount weighs less, choose the column having the lowest gram weight and use that column of nutrients to compare to the FNS Nutrient Criteria for Breakfast Cereals. To be creditable, the cereal must meet or exceed the minimum criteria for all five of the required nutrients.

b. **Ready-to-Cook cereals, dry:**

Since the portion size for ready-to-cook cereals is 25 grams dry, all cooked cereals will be based on 25 grams dry, regardless of the amount of cooked cereal served in the meal or how much liquid is added to cook the cereal. Compare the nutrient values to the FNS Nutrient Criteria for Breakfast Cereals. To be creditable, the cereal must meet or exceed the minimum criteria for all five of the required nutrients.

6. Print the documentation and keep on file.

11420 Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal

Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal

Ready-to-Eat Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 1.0 ounce (28.35 grams) or the weight of ¾ cup – whichever amount weighs less.*

Brand Name _____________________________ Cereal Name _______________________________

1. The portion size of the ready-to-eat cereal on Nutrition Facts Label = ________ cup(s) ________ grams

2. Determine the weight of ¾ cup of the cereal:
   0.75 cup *divided by* _______ cup(s) of cereal from Nutrition Facts Label = ________ factor
   ________ factor *multiplied by* ________ grams/portion from Nutrition Facts Label = ________ grams per ¾ cup cereal

3. Which weighs less, One Ounce (28.35 grams) or ________ grams per ¾ cup cereal?
   The amount that weighs less = ________ grams; the nutrients in this amount of cereal will be used to compare to the FNS Criteria for Breakfast Cereals.

4. Determine the conversion factor based on the amount of ready-to-eat cereal that weighs less (Do not round up): ________ grams (amount that weighs less) *divided by* ________ grams (from Nutrition Facts Label) = ________ conversion factor for nutrients

5. Calculate the nutrients from the Nutrition Facts Label to the nutrients in the amount that weighs less by multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per Amount that Weighs less	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)		x		=		6.7%	
Riboflavin (B2)		x		=		3.5%	
Niacin (B3)		x		=		4.2%	
Folic Acid (B9)		x		=		5.0%	
Iron		x		=		3.9%	

6. ________ All of the answers in Column F are "yes," the cereal is creditable using this option.
   ________ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

Manual Conversion for Nutrients per Portion of a Ready-to-Eat Breakfast Cereal - EXAMPLE

Ready-to-Eat Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 1.0 ounce (28.35 grams) or the weight of ¾ cup – whichever amount weighs less.*

Brand Name General Mills **Cereal Name** Wheaties

1. The portion size of the ready-to-eat cereal on Nutrition Facts Label = 1 cup(s) 30 grams
2. Determine the weight of ¾ cup of the cereal:

   0.75 cup *divided by* 1 cup(s) of cereal from Nutrition Facts Label = 0.75 factor

   0.75 factor *multiplied by* 30 grams/portion from Nutrition Facts Label = 22.5 grams per ¾ cup cereal
3. Which weighs less, One Ounce (28.35 grams) or 22.5 grams per ¾ cup cereal?

   The amount that weighs less = 22.5 grams; the nutrients in this amount of cereal will be used to compare to the FNS Criteria for Breakfast Cereals.
4. Determine the conversion factor based on the amount of ready-to-eat cereal that weighs less (Do not round up): 22.5 grams (amount that weighs less) *divided by* 30 grams (from Nutrition Facts Label) = 0.75 conversion factor for nutrients
5. Calculate the nutrients from the Nutrition Facts Label to the nutrients in the amount that weighs less by multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per Amount that Weighs less	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)	50%	x	0.75	=	37.5%	6.7%	Yes
Riboflavin (B2)	50%	x	0.75	=	37.5%	3.5%	Yes
Niacin (B3)	50%	x	0.75	=	37.5%	4.2%	Yes
Folic Acid (B9)	50%	x	0.75	=	37.5%	5.0%	Yes
Iron	45%	x	0.75	=	33.7%	3.9%	Yes

6. __X__ All of the answers in Column F are "yes," the cereal is creditable using this option.

   ________ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option.

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

11430 Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal

Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal

Ready-to-Cook Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 25.0 grams ready-to-cook dry cereal*

Brand Name ____________________________ Cereal Name ______________________________

1. The portion size of the ready-to-cook dry cereal on Nutrition Facts Label = ________ cup(s) ________ grams

2. Determine the conversion factor for nutrients (Do not round up): 25 grams *divided by* _______ grams (from Nutrition Facts Label) = ________ conversion factor for nutrients

3. Calculate the nutrients from the Nutrition Facts Label to the nutrients in 25 grams of ready-to-cook dry cereal multiplying by the conversion factor for nutrients:

A. Nutrient	B. % DV from Nutrition Facts Label	x	C. Conversion Factor for Nutrients	=	D. Nutrients per 25 grams Ready-to-Cook Dry Cereal	E. FNS Nutrient Criteria for Breakfast Cereals	F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No
Thiamin (B1)		x		=		6.7%	
Riboflavin (B2)		x		=		3.5%	
Niacin (B3)		x		=		4.2%	
Folic Acid (B9)		x		=		5.0%	
Iron		x		=		3.9%	

4. ________ All of the answers in Column F are "yes," the cereal is creditable using this option
   ________ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

Manual Conversion for Nutrients per Portion of a Ready-to-Cook Breakfast Cereal - Example

Ready-to-Cook Cereals: *Cereal portion size from the FNS Nutrient Criteria for Breakfast Cereals = 25.0 grams ready-to-cook dry cereal*

Brand Name __Quaker__ **Cereal Name** _Instant Grits, Real Cheddar Cheese Flavor_

1. The portion size of the ready-to-cook dry cereal on Nutrition Facts Label = _1 packet_ cup(s) _28_ grams

2. Determine the conversion factor for nutrients (Do not round up): 25 grams *divided by* _28_ grams (from Nutrition Facts Label) = _0.89_ conversion factor for nutrients

3. Calculate the nutrients from the Nutrition Facts Label to the nutrients in 25 grams of ready-to-cook dry cereal multiplying by the conversion factor for nutrients:

A. Nutrient	**B. % DV from Nutrition Facts Label**	**x**	**C. Conversion Factor for Nutrients**	**=**	**D. Nutrients per 25 grams Ready-to-Cook Dry Cereal**	**E. FNS Nutrient Criteria for Breakfast Cereals**	**F. Is the Amount in Column D Equal to or Greater than the Amount in Column E? Yes or No**
Thiamin (B1)	10%	x	0.89	=	8.9%	6.7%	Yes
Riboflavin (B2)	10%	x	0.89	=	8.9%	3.5%	Yes
Niacin (B3)	10%	x	0.89	=	8.9%	4.2%	Yes
Folic Acid (B9)	10%	x	0.89	=	8.9%	5.0%	Yes
Iron	45%	x	0.89	=	40%	3.9%	Yes

4. __X__ All of the answers in Column F are "yes," the cereal is creditable using this option
________ One or more of the answers in Column F are "no," the cereal is **not** creditable using this option

(Keep in mind that cereals meeting the requirements are allowed in the Grains/Breads Instruction or FBG flowchart are creditable even if they do not meet the FNS Nutrient Criteria for Breakfast Cereals.)

11440 Child Care Recipes

The USDA website provides child care recipes that meet program requirements for CACFP meal patterns when prepared and served as indicated. These recipes can be a useful resource when planning healthy and nutritious meals for the children you serve, while offering a variety of foods to keep children interested. CEs and sites should always ensure they are using the most updated recipes provided by USDA.

The recipes can be accessed on the Institute of Child Nutrition (ICN) website at theicn.org.

Select Child and Adult Care Food Program, and then select Recipes – USDA Recipes for Child Care

11450 Calculating Percentage of Calories from Fat

Example 1:

1 cup frozen cut green beans plus 1 pat butter contains 4 grams of fat. Total calories: 75

To calculate the percent of calories from fat in this food:

$$\frac{\text{\# grams of fat (4) X Calories/gram of fat (9)}}{\text{Total Calories (75)}} = 48 \text{ percent calories from fat}$$

Example 2:

1 cup low fat (2 percent) cottage cheese contains 4 grams of fat. Total calories: 205

$$\frac{4 \text{ X } 9}{205} = 18 \text{ percent calories from fat}$$

Example 3:

1 cupcake contains 4 grams of fat. Total calories: 120

$$\frac{4 \text{ X } 9}{120} = 30 \text{ percent calories from fat}$$

From this analysis, Example 3 (a cupcake) would be a better choice than Example 1 (green beans). This is due to the low-calorie content of the green beans and the higher calorie content of the cupcake. All three foods contribute the same amount of fat (4 grams) to a meal. They differ only in the amount of protein and carbohydrate and, therefore, in the calories contained.

11500 USDA Child Nutrition (CN) Labels

The USDA, Child Nutrition (CN) Labeling Program provides food manufacturers the option to include a standardized food crediting statement on their product label. CN Labels must be authorized by USDA, FNS prior to use and manufacturers must have quality control procedures and inspection oversight that meet the FNS requirements.

USDA has made lists available of authorized CN labels issued to manufacturers since January 2005, on the FNS CN Labeling Program website.

The web address for the FNS CN Labeling Program is:

https://www.fns.usda.gov/cn/labeling-program

The website provides links to manufacturers and products that have met the Quality Control Program requirements for the CN Labeling Program, which includes the United States Department of Commerce's (USDC) seafood inspection program and the Food Safety and Inspection Service inspection directory for meat, poultry, and eggs. The lists are updated monthly.

For additional information on the CN Labeling Program and how it can be used in meeting meal pattern requirements, see Appendix C of your *Food Buying Guide for Child Nutrition Programs*, also available online at

https://foodbuyingguide.fns.usda.gov

11600 Sample Day Care Home Provider/Unaffiliated Center Serious Deficiency Notices

NOTE: The Sample Day Care Home Provider Serious Deficiency Letters have been removed from this section and placed on the CACFP Administration/Forms page[1] of SquareMeals.org. They have also been updated so that they can be used by sponsors of unaffiliated child care, at-risk, and adult day care centers. Please refer to Section 10000, *Serious Deficiency*, for more information on the Serious Deficiency process for sponsors of day care home providers and unaffiliated centers.

11700 Additional Information

11710 Imported Plasticware Safety

Any supplier with an office or address in the United States must abide by Food and Drug Administration (FDA) regulations. While many manufacturers use labor and products from all over the world, they still must follow FDA rules regarding the chemical composition of the final product.

The FDA also states that imported plasticware that does not contain bright colors or is overly soft or flexible provides little risk of migration of chemicals into food. They further noted that food should not be heated or microwaved in imported plasticware unless the plasticware is specifically made for microwave use.

[1] https://squaremeals.org/Programs/Child-and-Adult-Care-Food-Program/Administration-Forms

Section 12000
Frequently Asked Questions

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12000
Frequently Asked Questions

12010 USDA Memos

To view USDA questions and answers related to the CACFP in their entirety go to:

http://www.fns.usda.gov/cacfp/policy

12020 Oversight, Training and Monitoring

1. **Question:** A center documents on their meal production record that fresh apples were served at lunch. There are no receipts for fresh apples for that month, however the center has provided more than enough receipts to document all CACFP funds were used on allowable costs.
   a. Is the sponsor supposed to disallow this meal based on the fact that the additional documentation of purchase of the apples is missing?
   b. If the sponsor was present at this particular meal and observed apples being served, should be meal be disallowed based solely on the fact that the center did not provide this receipt?
   c. If the previous reviews conducted by the sponsor resulted in no findings, should this be a factor when considering the validity of the meal production record to document the service of fresh apples?

   Answer: A sponsor that is reviewing receipts against meal production records, and cannot verify the purchase of foods the site documents on meal production records would be expected to explore other documents (such as recycled foods, inventory logs, documentation of donations) to determine if the lack of purchase was due to that food item already being present in stock. If the sponsor cannot substantiate that the site had purchased the food, or had the food in inventory, then the sponsor should disallow the meal(s).

   A sponsor that observed a meal service that included apples would not necessarily have to disallow *that meal* based on recordkeeping, but would have to obtain corrective action from the site to ensure proper recordkeeping in the future.

Previous reviews should be taken into account when determining if failure to comply with Program requirements might possibly result in a referral of the responsible principal/individual to TDA for serious deficiency.

2. **Question:** Is the sponsor supposed to use the collection of receipts to verify not only that the center is spending all CACFP funds on allowable costs, but also to verify purchase of specific foods? If so, which, foods (only fresh foods?) and at what frequency? every month? and for all sites? How does this compare to TDA's review procedures for CE Centers?

   Answer: Sponsors must ensure that sites are compliant with financial management requirements found in the CACFP Handbook, 2 CFR Part 200, 7 CFR Part 226, and FNS Instruction 796-2, Financial Management - Child and Adult Care Food Program, which require that CACFP funds are spent on allowable items. In addition the items must be reasonable and necessary to operate the program. In order to determine sites have submitted accurate meal counts of reimbursable meals, sponsors are expected to provide oversight on a monthly basis, that includes ensuring that meals meet CACFP meal pattern requirements and that sites have all documentation to support the meals claimed, including receipts. Sponsors are responsible for the accuracy of the claim submitted on behalf of their sites each month.

3. **Question:** A center purchases 7.5 pounds of apples to serve at lunch for 100 students (ages 3-5). The meal service is family style and there are 3 pounds of apples left from lunch. The center serves the 3 pounds to 20 children the next day at breakfast. The meal production record shows 7.5 pounds of apples served at lunch and 3 pounds of apples served at breakfast. The receipt is for 7.5 pounds of apples. Repeat this occurrence for all family style meals for all foods....Should the meals be disallowed based on the receipts in family style meal services?

   Answer: Family style meal service requires the full amount of each component required for each participant is placed on the table, regardless of how much is actually taken by each participant. If the center has leftovers it plans to recycle it should be documented (reference TDA Form H1568, *Record of Recycled Food*). A sponsor would be expected to review all available records (receipts, inventories, record of recycled food and documentation of donations) against meal production records to ensure the center had enough food on hand to have served the meals it is claiming.

4. **Question:** The center reimbursement for the year is $4000.00. The receipts the center has submitted to document expenditures total $3900.00 for the year. Should the sponsor deduct $100 from the center and $15 from its admin funds and send it back to TDA?

Answer: After ensuring that the site does not actually have any additional allowable operating costs (reference FNS Instruction 796-2) for which the funds could be attributed, the sponsor would follow the procedure in Section 7000, *Financial Management*, Item 7400, *Nonprofit Food Service* and develop a plan for the site to reduce the excess balance. If it becomes necessary (at the end of the Program Year), to return the funds, including the administrative, the sponsor should follow the procedure in Section 3000, *Program Agreement*, Item 3211, *Reimbursement of Meals*.

5. **Question:** The center submits receipts for purchases that indicate the purchase was made as an Electronic Benefit Transfer. Is there a streamlined procedure for reporting this?

   Answer: With the exception of emergency shelters, centers may not use a households SNAP benefits to purchase food for its center. Should a sponsor discover this occurring, the center should be reported to the Texas Health and Human Services Commission at https://oig.hhsc.texas.gov/

   Additionally, those costs would be unallowable and, the sponsor may contact TDA to determine if the responsible principal or individual at the center should be placed in the serious deficiency process.

6. **Question:** The center reports to the sponsor that their receipts for the current claim month have been destroyed in a flooded office. Should all meals be disallowed for the month? (the center's annual reported CACFP expenses will total more than the annual reimbursement)

   Answer: If the sponsor has verification that a natural disaster had destroyed that centers records TDA would not expect the sponsor to take an adverse action.

7. **Question:** Meal Production Records - Clarification of disallowance procedures
   a. A Center serves lunch to 66 children (ages 1-2) and documents on the meal production record that they served 2 gallons of milk, or 32 1/2c servings. They needed 33 1/2c servings for 66 children, or 2.06 gallons. Should the sponsor disallow all meals because it is unknown which children were shorted or should the sponsor disallow only 1 meal?
   b. If there are multiple age groups, should the sponsor disallow the fewest meals possible, for example choose only one 6-12 year old meal for a one cup shortage vs. two meals for the 1-2 year old group?

   Answer: If an insufficient quantity of food was prepared the sponsor may allow the site to claim the number of meals for which sufficient quantities were available, and may minimize the disallowance by disallowing the fewest meals possible. The sponsor would also require corrective action from the site to ensure the non-compliance does not occur again, and provide training to the site on the meal pattern requirements and meal production, both preparing the correct components in the correct quantities and proper documentation of the meal production record.