



Policy Update

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David Dierksen, Assistant Director for Policy



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

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Food and Nutrition Division
Summer Meal Programs



Updated 2/28/2024
www.SquareMeals.org

01

Summer 2024 Rural Non-Congregate





DISCLAIMER

- Management and Administration Plan under review
- New/Updated implementation processes still under development.

Documenting Rurality

Non-congregate service **only** available to SFSP/SSO sites in rural areas:

- USDA has codified 6 different potential data sources that can determine the rurality of a site (7 CFR 225)
- Must verify rurality for **all** summer sites (using site mapper)
- TDA will track rural designation, which is good for only 5 years.



Where Congregate Service Does Not Exist

- 2-mile proximity required from nearest site.
- Any existing rural SFSP or SSO congregate site in good standing that meets proximity requirements and all new application requirements can potentially switch to non-congregate service.
- Switched SFSP sites will be considered “new”:
 - Subject to sponsor pre-operational visits and first two weeks site visit

CE Eligibility

All CEs must have previous program experience:

- All rural school districts participating in School Nutrition Programs
- Private non-profits with at least one year of previous program experience.
- All CEs must be in good standing (no debt, no SD, no open corrective action).



Available Flexibilities

- Grab-and-Go (10-day max distribution)
- Mobile Routes offering Grab-and-Go (10-day max distribution)
- Home Delivery (5-day max distribution)
- Bulk Food Component Distribution (5-day max distribution)
- Parent/Guardian Pick-Up
- Hybrid Congregate/Non-Congregate Sites



Available Flexibilities

- States can deny or limit flexibilities only on a case-by-case basis.
- CEs are required to provide procedures to show how they will avoid duplicate meal service if issuing multi-days of meals and using parent pick-up as a flexibility.

Additional Documentation Required

Bulk Component Distribution and 5+-day Distribution

TDA is requiring:

- Sample menus
- Procedures on ensuring food safety, and as applicable,
- Sample food preparation instructions.

Home Delivery

TDA is requiring:

- Procedures for how the CE will secure parental consent and protect the privacy of households.
- If a PNP uses school data to identify children, proof of MOU with a school district.

Hybrid Congregate/Non-Congregate Sites

Sites can provide both congregate and non-congregate service **as long as the services do not overlap and duplicative meals are not served.**

Allowable:

- Congregate meals M-F with non-congregate meals sent home on weekends.
- Congregate daily breakfast with lunches sent home each day.
- All children receive the same number and type of meals at distribution.

Not allowable:

- Summer school kids fed congregate meals daily while other children receive multi-day bundle.

Hybrid Congregate/Non-Congregate Sites

- Sites may have to keep separate meal counts of congregate and non-congregate meals
 - Awaiting USDA clarification
- CEs must document their distribution scenarios in the non-congregate request form



Application Process for “Standard” Sites

- Similar to Summer 2023:
 - CE uses mapping tool to determine if site is rural and meets proximity requirements.
 - Site application must be approved for standard congregate service prior to applying for NC eligibility via the NC Request Form.
 - CEs will be able to enter procedures directly into fields on the form or upload documents.
 - If approved for NC, our application team will add NC designation to site name.

Conditional Non-Congregate Sites

- Not open, not a camp, not closed enrolled (though very similar)
- Operates only in higher income areas.
- Must operate NC service.
- Reimbursement only for meals served to F/R children.
- Can charge for non-F/R meals.

Conditional NC Sites

- At time of application:
 - Must submit detailed Policy statement (if charging for meals) and hearing procedures (outlined in regulation)
 - Must indicate number of estimated children eligible to receive free meals.
- Only available to school districts in Summer 2024
- Costs of non-reimbursable meals are allowable.
- Additional guidance on how to apply coming soon.

Summer Non-Congregate 2024

Start Preparing Now!!!

- Determine number of days to serve
- Develop procedures
 - Identifying parent/guardian
 - Preventing duplicate meals
 - Food safety
 - Protecting family confidentiality (home delivery)
- Develop sample menus
- Determine service options and days of service
- Determine optimal site locations.

Summer Non-Congregate 2024

More to come!

<https://squaremeals.org/Programs/Summer-Meal-Programs/Summer-Non-Congregate-Feeding-Program>

- FAQs
- Updated NC Request Form
- New congregate/non-congregate meal count forms
- Updated SFSP Site Review Forms
- Process for conditional NC sites
- Updated Mapping Tool
- Webinar information

Public Comments Welcome!

- Interim Final Rule published December 29, 2023.
 - “Interim” means the regulations are now in effect, but public comments are being accepted and will be considered in a future rule update that will remove the “Interim” tag.
- Comments are **due April 29, 2024**.
 - Federal eRulemaking Portal: Go to <https://www.regulations.gov>. Follow the online instructions for submitting comments.
 - Mail: Send comments to Community Meals Policy Division, USDA Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314.
- Available to read:
<https://www.federalregister.gov/documents/2023/12/29/2023-28488/establishing-the-summer-ebt-program-and-rural-non-congregate-option-in-the-summer-meal-programs>

02

Alternate Meals





Alternate Meals

Provide a free or lower cost meal or alternate food items to students who have exhausted the grace period for charging meals.

Two options:

- Reimbursable
- Non-Reimbursable



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Option 1: Reimbursable Alternate Meals

- Must meet the meal pattern.
- May claim the meal.
- May charge a lower price or offer for free.
- If charging, any remaining unpaid charges at the end of the charge period must be recovered from a non-federal (non-program) funds.
- Meal cost, even if free, must be factored into Paid Lunch Equity (PLE) average.



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Paid Lunch Equity

- No findings in SY 2023-2024 for failure to include alternate meals in PLE calculations.
- Note: SFAs with zero or positive balance in food service account as of June 30, 2022, were exempt from PLE Requirements.
- Awaiting PLE guidance for SY 2024-2025 but currently no exemptions in place.



PLE Example – Free Alternate Meals Not Included

SY 2022-23 Weighted Average Price Calculator			
Enter the paid prices and number of paid lunches sold at each price for October 2022.			
Monthly # of Paid Lunches	Paid Lunch Price	Monthly Revenue	SY 2022-23 Weighted Average Price
1,000	\$ 4.00	\$ 4,000.00	
750	\$ 3.50	\$ 2,625.00	
800	\$ 3.65	\$ 2,920.00	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
2,550		\$ 9,545.00	\$ 3.74
<i>Note: SY 2022-23 Weighted Average Price equal to or above the target price of \$3.56 is compliant for SY 2023-24. \$3.56 is the difference between the Free and Paid reimbursement rates for SY 2022-23.</i>			

- Three schools
- Three separate lunch charges for regular lunch
- \$3.56 is the target price
- \$3.74 is the PLE Weighted Average



PLE Example – Free Alternate Meals Included

SY 2022-23 Weighted Average Price Calculator			
Enter the paid prices and number of paid lunches sold at each price for October 2022.			
Monthly # of Paid Lunches	Paid Lunch Price	Monthly Revenue	SY 2022-23 Weighted Average Price
1,000	\$ 4.00	\$ 4,000.00	
750	\$ 3.50	\$ 2,625.00	
800	\$ 3.65	\$ 2,920.00	
60	\$ -	\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
2,610		\$ 9,545.00	\$ 3.66
<i>Note: SY 2022-23 Weighted Average Price equal to or above the target price of \$3.56 is compliant for SY 2023-24. \$3.56 is the difference between the Free and Paid reimbursement rates for SY 2022-23.</i>			

- Three schools
- Three separate lunch charges for regular lunch
- 60 alternate meals offered free
- \$3.66 is the PLE Weighted Average



PLE Example – Free Alternate Meals Included

SY 2022-23 Weighted Average Price Calculator			
Enter the paid prices and number of paid lunches sold at each price for October 2022.			
Monthly # of Paid Lunches	Paid Lunch Price	Monthly Revenue	SY 2022-23 Weighted Average Price
1,000	\$ 4.00	\$ 4,000.00	
750	\$ 3.50	\$ 2,625.00	
800	\$ 3.65	\$ 2,920.00	
200	\$ -	\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
2,750		\$ 9,545.00	\$ 3.47
<i>Note: SY 2022-23 Weighted Average Price equal to or above the target price of \$3.56 is compliant for SY 2023-24. \$3.56 is the difference between the Free and Paid reimbursement rates for SY 2022-23.</i>			

- Three schools
- Three separate lunch charges for regular lunch
- 200 alternate meals offered free
- \$3.47 is the PLE Weighted Average



Meeting PLE

Options for meeting PLE requirements:

1. Charge a price for the reimbursable alternate meals that brings the weighted average up.
2. Raise the prices of regular lunches to meet the weighted average.
3. Do not raise prices and use nonfederal funds to meet the required target price average.
4. A combination of all of the above.

Reminder: \$0.10 is the maximum price adjustment required, but larger adjustments can be made.



Option 1: Reimbursable Alternate Meals



Recommended!

- Provides program income
- Provides a nutritious meal
- Food costs allowable



Option 2: Non-Reimbursable Options

- Cannot be claimed.
- May sell lower cost à la carte items that meet Smart Snacks requirements.
 - If paid for with CNP funds, revenue from sales must accrue to the non-profit food service account
- May offer non-reimbursable items for free
 - Cost of food is unallowable; must use nonfederal funds to pay for the cost of the meal
 - Does not have to meet meal pattern.



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Food Service Management Companies (FSMCs)

Reimbursable Alternate Meals

- Charge or Free
 - Bill at regular meal fixed rate.

Non-Reimbursable Food Items

- Charge
 - Bill as nonprogram food.
- Free
 - Nonfederal funds must pay for meal.



Charge Policy

Charge policy must be clear on different meal charges for regular and alternate meals, and how and when alternate meals will be provided.



Coming Soon

ARM Updates to Section 19

- Clarification on PLE calculations
- Tie Alternate Meal pricing to PLE
- Comprehensive review and update for clarity



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03

**Proposed Rule – Serious Deficiency
for CACFP and SFSP**



Major Changes Proposed for the SD Process

- Serious Deficiency process would be defined in SFSP regulation
 - Includes expansion of National Disqualified List to include disqualified SFSP operators
- SD process now defined for CACFP sponsors with unaffiliated centers.
- Redefines findings that trigger the SD process as “serious management problems” rather than “serious deficiencies.”
- Codifies the analysis process for identifying serious management problems and clearly defines the six steps and notification requirements throughout the process.
- Creates a path for full correction of serious management problems
 - Replaces current concept of “temporary SD deferral

Proposed Path for Full Correction

- Serious management problem(s) identified
- If corrective action successfully implemented within regulatory timeframes, sponsor receives notification of successful corrective action and returns to “good standing” though not “full correction.”
- Subsequent reviews will determine “full correction status”
 - CACFP Sponsors – move to 2-year cycle. Two full reviews with no repeat findings must occur 24 months apart.
 - CACFP Sites/Providers - At least 3 consecutive full reviews with no repeat findings
 - SFSP Sponsors – move to a 1-year cycle. Two full reviews occurring once each year with no repeat findings must occur 12 months apart
 - Any repeat findings discovered in targeted follow-ups during this time will end in proposed termination.
 - After full correction, repeat findings will reset the SD process.

Proposed Suspension Process – Fraudulent Claims

No regulations currently exist for SFSP related to suspension in the case of fraudulent claims. Two options considered:

- Option A – No suspension procedures. CE can continue to be reimbursed for valid claims throughout the SD process.
- Option B – State Agency must suspend immediately, sending Notice of Proposed Termination at same time of Notice of Suspension (suspension is appealable).

NOTE: Current CACFP regulations give states discretion to suspend CEs in the event of fraudulent claims. The Proposed Rule would require a Notice of Proposed Suspension if fraudulent activity is detected.

Reciprocal Disqualification

- Proposes disqualification in one program disqualifies for all.
- Proposes options specifically for School Food Authorities
 - Option A – require the State agency to terminate, disqualify, and place on the National Disqualified List any school food authority that is declared seriously deficient. Would prohibit continuation of any School Nutrition Program
 - Option B – Require the State agency to terminate the school food authority's agreement to operate CACFP or SFSP and put all responsible individuals and principals on the NDL. However, State Agency would have the discretion to allow the school district itself to remain *off* the NDL and continue participation in NSLP and other SNPs.

Public Comments Welcome!

Comments must be received **by May 21, 2024**.

Comments may be sent to:

Program Integrity and Innovation Division, 1320 Braddock Place,
Alexandria, VA 22314.

Comments will also be accepted through the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and follow the online instructions for submitting comments electronically.

Full text of Proposed Rule:

<https://www.federalregister.gov/documents/2024/02/21/2024-02108/serious-deficiency-process-in-the-child-and-adult-care-food-program-and-summer-food-service-program>

04

NEW RELEASES



New Releases

- 2024-2025 Income Eligibility Guidelines posted on SquareMeals: <https://squaremeals.org/FandN-Resources/Income-Eligibility-Guidelines>
 - Household applications and other resources with updated IEGs arriving later this year.
- 2023-2024 School Data for Area Eligibility Report
 - Available on SNP, CACFP, and SFSP Administration/Forms pages
 - Lists all area eligible schools (schools in attendance zone of eligible schools are also eligible)
 - Data based on October 2023 F/R claims (for non-CEP schools) and minimum 31.25 ISP (for CEP schools)



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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

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