STATE OF TENNESSEE

CHILD AND ADULT CARE FOOD PROGRAM

POLICIES AND PROCEDURES MANUAL

DEPARTMENT OF HUMAN SERVICES
Administering State Agency

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TABLE OF CONTENTS

	PAGE
INTRODUCTION	**1**
ELIGIBLE INSTITUTIONS AND PARTICIPANTS	**3**
DEFINITIONS	**5**
CHILD CARE CENTER COMPONENT	**11**
Eligibility and Participation Requirements	**12**
Training and Review Requirements	**16**
Eligibility for Meal Reimbursement	**18**
Participant Enrollment Requirements	**20**
Record-keeping	**23**
Meal Patterns and Services.	**26**
Nutrition and Food Service Requirements	**37**
Reimbursement	**40**
Sponsorship of Unaffiliated Centers	**42**
ADULT CARE CENTER COMPONENT	**44**
Eligibility and Participation Requirements	**45**
Nutrition and Food Service Requirements	**53**
Reimbursement	**57**
Review and Training Requirements	**61**
Meal Patterns and Services	**63**
Record-keeping	**71**
Sponsorship of Unaffiliated Centers	**73**
CHILD CARE HOME COMPONENT	**76**
Eligibility and Participation Requirements	**77**

Alternate Approval Policy 84

Two-Tier Reimbursement Structure 91

Meal Patterns and Services 96

Reimbursement 107

Record-keeping 113

AFTERSCHOOL CARE MEAL PROGRAM FOR AT-RISK CHILDREN. **118**

Eligibility and Participation Requirements 119

Meal Patterns and Services. 122

EMERGENCY SHELTER COMPONENT **129**

Eligibility and Participation Requirements 130

Meal Patterns and Services. 134

CIVIL RIGHTS **145**

TRAINING **149**

NON-DISCRIMINATION **151**

ALLOWABLE AND UNALLOWABLE COSTS **154**

MONITORING PROCEDURES AND MEAL DISALLOWANCE POLICY **156**

HOUSEHOLD CONTACT POLICY **161**

PROCEDURES FOR ADDRESSING SERIOUS DEFICIENCIES **172**

APPEAL PROCEDURES **176**

EXHIBIT 1 - SUMMARY OF USDA FINANCIAL INSTRUCTION **182**

INTRODUCTION

INTRODUCTION

The purpose of this manual is to provide daily guidance for institutions participating in the Child and Adult Care Food Program (CACFP). The CACFP is funded by the U.S. Department of Agriculture (USDA) through the National School Lunch Act, and is administered on the state level by the Tennessee Department of Human Services (TDHS).

The CACFP provides payments for eligible meals served to participants who meet age and income requirements. Administrative payments are also provided for institutions that sponsor the participation of child care homes and unaffiliated child and adult care centers. All payments are based on the uniform reimbursement rates promulgated by the USDA each July 1.

This manual, in combination with the federal regulations found at 7 CFR Part 226 and policy memoranda issued by the TDHS and the USDA, represent the policies and procedures that all participating institutions must observe to ensure program compliance. If any policy or procedure contained in this manual conflicts with the regulations or memoranda issued by the USDA, the federal regulations and memoranda shall take precedence.

The policies and procedures contained in this manual are separated by program component. The CACFP is composed of separate components for child care centers; adult care centers; child care homes; after-school care programs for at-risk children; and emergency homeless shelters.

ELIGIBLE INSTITUTIONS AND PARTICIPANTS

ELIGIBLE INSTITUTIONS AND PARTICIPANTS

The institutions that are eligible for CACFP participation include the following:

1. Non-residential child care centers which are licensed by state government and which are operated by public or private non-profit organizations;

2. Non-residential child care centers which are privately owned and which have at least 25% of their enrollment or licensed capacity participating in the Tennessee Child Care Certificate Program or meeting income guidelines established by the USDA;

3. Non-residential adult care centers which are licensed by state government and are operated by public or private non-profit organizations, and which provide care for functionally impaired adults;

4. Organizations which sponsor the CACFP participation of child care homes which are licensed by state government or which receive alternate approval by the sponsoring organizations to participate in the program;

5. Emergency shelters that provide temporary housing and food services to homeless children, with or without their families; and

6. After school care programs which serve at risk children.

The participants who are eligible for CACFP participation include the following:

1. Children enrolled in child care institutions who are 12 years of age and younger,

2. Children of migrant workers 15 years of age and younger,

3. Adults who are mentally or physically disabled persons enrolled in a child care institutions serving a majority of persons 18 years of age and younger.

4. Adults who are enrolled in an adult care center which serves functionally impaired adults or individuals who are 60 years of age or older.

DEFINITIONS

DEFINITIONS

Actual Count - the reimbursement method requiring meal count records by name and category for each meal claimed.

Administrative Costs - the costs incurred by an institution or sponsoring organization related to planning, organizing, and managing a food service and allowed by TDHS policy.

Adult Care Center - any public or private non-profit organization or any proprietary Title XX center (as defined below) which is licensed or approved by Federal, State or local authorities to provide non-residential adult care services to functionally impaired adults (as defined below) or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and which provides for such care and services directly or under arrangements made by the organization whereby the organization maintains professional management responsibility for all such services. Such centers shall provide a structured, comprehensive program that provides a variety of health, social and related support services to enrolled adult participants through an individual plan of care.

Adult Participant - a person enrolled in an adult care center who is functionally impaired (as defined below) or 60 years of age or older.

Alternate Approved (Self-Certified) Child Care Home Provider – an unlicensed home provider who cares for 4 or fewer non-residential children and is approved by the TDHS to participate in the CACFP based on compliance with the child care standards at 7 CFR Part 226.6.

Categorical Eligibility - the automatic eligibility of participants for the highest rates of meal reimbursement under the CACFP. Households that are determined to have categorically eligible participants do not have to provide information on the income received by household members.

Child Care Center – A facility that is licensed to provide non-residential child care services.

Child Care Home – A facility that is licensed or approved to provide non-residential child care services in a group or family home setting, or a facility that is approved to participate in the CACFP under the Alternate Approval Procedures at 7 CFR Part 226.6 (d) (3).

Children - persons 12 years of age and under; children of migrant workers 15 years of age and under, and mentally or physically disabled persons, as defined by the State, enrolled in a child care institution or facility serving a majority of persons 18 years of age and younger.

Claiming Percentage - a reimbursement method requiring meal count records to be kept by type and age group.

Determining Official - the employee(s) of a participating CACFP institution who are responsible for reviewing completed eligibility applications to determine the appropriate rate of meal reimbursement for participants (i.e., free, reduced-price or paid).

Enrollment Form - a signed document which indicates that a participant is enrolled for child or adult care.

FNS - the Food and Nutrition Service of the U.S. Department of Agriculture.

Enrolled Participant - a child or adult who is enrolled for care at a child or adult care facility.

Family – in the case of children, a group of related or nonrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit.

Family – in case of adult participants, the adult participant, the spouse and dependent(s) of the adult participant if they reside with the adult participant.

Free Meal - a meal served under the CACFP to a participant from an household that meets the income standards for free meals or that meets the categorical eligibility requirements. Neither the participant nor any member of his or her family shall be required to pay for the meal received.

Functionally Impaired Adult - 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. Activities of daily living include, but are not limited to, the following: adaptive activities such as cleaning, shopping, cooking, taking public transportation, maintaining a residence, caring appropriately for one's grooming or hygiene, using telephones and directories, or using a post office. Marked limitations refer to the severity of impairment, and not the number of limited activities, and occur where the degree of limitation is such as to seriously interfere with the ability to function independently.

Financial Management - the aspect of CACFP management that allows control over and accountability for all funds received under the program.

Fiscal Year - the period of 12 calendar months beginning October 1 of any year and ending September 30 of the following year.

Food Service Management Company - an organization, other than a public or private non-profit school, with which an institution may contract for preparing and delivering meals under the CACFP.

For Profit (Proprietary) Child Care Center – a child care center that is not exempt from the payment of federal income taxes by the Internal Revenue Service.

Free and Reduced-Price Application (Income Eligibility Application) - the standard form promulgated by the TDHS for the collection of household size and income information for

participants. The form is utilized to determine participant eligible for the highest levels of meal reimbursement under the CACFP.

Free Meal - a meal served under the CACFP to a participant from a family which meets the income standards or categorical eligibility for free meals. No separate charge may be imposed by a CACFP institution for the cost of the meal.

Free Meal Rate of Reimbursement - the rate of meal reimbursement for participants whose household income falls at or below 130% of the federal poverty income guidelines.

Grievance Procedure - the steps for parents/guardians to submit grievances concerning alleged civil rights violations or other illegal or inappropriate activities committed by participating CACFP institutions.

Household - all individuals, related or unrelated, who are living together as one economic unit.

Income Guidelines - the household size and income standards published annually by the USDA for free and reduced-price meals.

Independent Center - a child or adult care center which enters into an agreement with the TDHS to assume administrative and financial responsibility for CACFP operations.

Infant – a child under 12 months of age.

Institution - a sponsoring organization for child or adult care centers, independent child or adult care center; outside-school-hours child care center, afterschool care program for at-risk children or emergency shelter which has executed a contract with the TDHS to assume final administrative and financial responsibilities for CACFP operations.

Meals - foods that are served to enrolled participants at a child or adult care center, emergency shelter or after-school care program facility and that meet USDA nutritional requirements.

Meal Count - a daily count of meals served to participants by meal type for claiming percentage method; or by name, eligibility and meal type for actual count.

Menus - a dated list of food, by meal type, served in the CACFP.

Non-Pricing Program - a program in which no separate identifiable charge is made for meals served to participants.

Non-Program Adult (Other Adults) - persons other than participants who are served meals in an eligible CACFP facility and who perform necessary on-site program labor for the meal service. These meals are not eligible for CACFP reimbursement.

Non-Profit Food Service - a food service operation in which all activities are conducted by the institution for the benefit of enrolled participants, and all CACFP reimbursement funds are used solely for the operations or improvement of the food service.

Non-residential - the same participants are not maintained in care for more than 24 hours on a regular basis.

Operating Costs - expenses that are incurred by an institution in serving meals to participants under the CACFP and that are allowed by the TDHS.

Outside-School-Hours Care Center (OSHCC) - a licensed or approved, non-residential child care facility that serves school-age children before or after school.

Participants - children or adults who are participating in the CACFP.

Paid Meal - a meal served to a participant who is not income or categorically eligible for a free or reduced-price meal.

Paid Rate of Reimbursement - the rate of meal reimbursement for participants whose household income exceeds 185% of the federal poverty income guidelines.

Pricing Program - a child or adult care facility in which a separate identifiable charge is made for "reduced-price" and "paid" meals served to participants. No separate charge may be made for "free" meals. Any separate charge imposed for "reduced- price" meals shall not be more than 40 cents for a lunch or supper, 30 cents for a breakfast, and 15 cents for a supplement. Neither the participant nor any member of the family can be required to work in the food service program.

Proprietary Child Care Center - any private, for profit child care center.

Reduced-Price Meal - a meal served under the CACFP to a participant from a household that meets the income standards for reduced-price meals (i.e., total household income is at or below 180% of the federal poverty income guidelines). Any separate charge imposed shall be less than the full price of the meal, but in no case more than 40 cents for lunch or supper, 30 cents for a breakfast, and 15 cents for a supplement, and for which neither the participant nor any member of this family is required to work in the food service program in the food service program.

Reduced-Price Rate of Reimbursement - the rate of meal reimbursement for participants whose household income falls at or below 185% of the federal poverty income guidelines, but exceeds 130% of the federal poverty income guidelines.

Reimbursement – money paid to institutions for eligible meals served and to sponsors of child care homes for eligible administrative costs.

Supplemental Nutrition Assistance Program (SNAP) Participant- a participant of an active SNAP case (formerly known as the Food Stamp Program).

Sponsoring Organization - a public or private non-profit organization that is entirely responsible for the administration of the CACFP in two (2) or more child or adult care center(s), outside-school-hours child care centers, afterschool care programs for at-risk children or emergency shelters. The term "sponsoring organization" also includes a for-profit organization which is entirely responsible for administration of the CACFP in any combination of two or more centers which are part of the same legal entity as the sponsoring organization. In addition, the term "sponsoring organization" includes public or private non-profit organizations which are entirely responsible for the administration of the CACFP in child care homes; or in child or adult centers that are or are not legally affiliated with the sponsoring organization.

SSI participant - an adult participant who receives assistance under Title XVI of the Social Security Act, the Supplemental Security Income (SSI) for the Aged, Blind and Disabled Program.

Subrecipient - any child or adult care center, after-school care program or emergency shelter under contract with the Tennessee Department of Human Services to provide meals under the Child and Adult Care Food Program.

TDHS – Tennessee Department of Human Services

Unitized Meal - a meal in which all meal components are served at the same time.

USDA - United States Department of Agriculture.

CHILD CARE CENTER COMPONENT

ELIGIBILITY AND PARTICIPATION REQUIREMENTS

Independent Child Care Centers

To participate in the CACFP, independent child care centers must:

1. Have a TDHS license to provide child care services;

2. Submit an approvable application;

3. Be operated by public or governmental institutions; **or** provide documentation of federal income tax exemption (i.e., non-profit status) by the Internal Revenue Service; **or** for proprietary (privately owned) centers, provide documentation that at least 25% of their enrollment or license capacity, whichever is less, includes beneficiaries of the TDHS Child Care Certificate Program; or participants who are eligible for free or reduced-price meal payments.

4. Maintain required records;

5. Accept final administrative and financial responsibility for program operations in the center;

6. Provide adequate personnel for managing the program;

7. Comply with the meal requirements;

8. Establish procedures to collect and maintain all program records;

9. Provide annual training for staff regarding CACFP requirements;

10. Correctly determine and report the eligibility of all participants for free, reduced-price and paid meal payments; and

11. Maintain and report separate counts of participant attendance and meal counts for each claiming month.

Special Eligibility Requirement for Proprietary Child Care Center (Independent or Sponsored)

For the purpose of determining the eligibility of a proprietary center to receive reimbursement for any claim period based upon the percentage of participants eligible for free and reduced-price benefits, each program participant must be appropriately enrolled for care and be in attendance for at least one day in the claim period.

Outside-School-Hours Care Center

Outside-school-hours care centers must comply with the preceding requirements for independent child care centers and with the following additional provisions:

1. May serve a lunch on weekdays to enrolled children attending schools that do not offer a lunch program;

2. May also serve eligible combinations of breakfast, lunch, supper and supplement to enrolled children during school vacations, including weekdays and holidays; and

3. May not operate the program on weekends only. School activities organized for purposes other than child care are not eligible to participate in the CACFP. School clubs, athletic teams, or other extracurricular programs organized primarily for scholastic, cultural, or athletic purposes cannot participate in the CACFP.

Sponsoring Organizations

To participate in the CACFP, sponsoring organizations must:

1. Submit an approvable application for participation;

2. Be operated by public or governmental institutions; **or** provide documentation of federal income tax exemption (i.e., non-profit status) by the Internal Revenue Service; **or** for proprietary or privately owned organizations limit sponsorship to those centers which are a legally affiliated with the organizations.

3. Accept final administrative and financial responsibilities for program operations;

4. Sign a standard written agreement (provided by the TDHS) with each child care center that is not a legal part of the sponsoring organization;

5. Ensure that all facilities comply with the CACFP meal requirements;

6. Provide adequate personnel for managing and monitoring the program;

7. Provide annual training for staff on CACFP requirements;

8. Establish procedures to collect and maintain necessary program records for each sponsored facility;

9. Distribute food service reimbursement to each child care facility within five working days after receiving it from the TDHS;
10. If a proprietary or privately owned sponsoring organization, only serve as a sponsor of the proprietary centers that are a legal part of the organization;

11. Determine and report the eligibility of all participants for free, reduced-price and paid meal payments;

12. Maintain and report separate counts of participant attendance and meal counts for each claiming month; and

13. Establish and maintain the following claim edit checks:

    a. Each sponsored facility is paid only for those meal types for which it has been approved to serve; and

    b. The number of meals claimed by each sponsored facility does not exceed the number derived by multiplying approved meal types times days of operation times enrollment.

Limitation on Use of Meal Reimbursements for Administrative Cost

All sponsoring organizations may not utilize more than 15% of the meal reimbursements received for eligible administrative costs.

Management Responsibility

All participating institutionsmust accept final administrative and responsibility for their CACFP operations. A CACFP institution cannot contract out functions such as monitoring, corrective action and preparation of application materials. It may, however, contract for specific management tasks such as bookkeeping, data processing, or the services of a nutritionist.

Date of Approval and Site Applications

The TDHS has 30 days to review an application from an institution. CACFP participation will commence the month following the TDHS's receipt and approval of a complete application. In addition, a pre-operational (on-site) visit by TDHS staff will be completed prior to program participation to provide training on program operations and required documentation to support all reimbursement claims.

All institutions must submit an application for a new site by the last date of the month preceding the month in which they wish participation to become effective. No administrative or meal payment may be claimed for any new site until approval is provided by the TDHS. All applications for new feeding sites must be accompanied by a current license.

A renewal application received from an institution currently participating in the CACFP will be approved for the beginning of the program year (October 1), if the institution's application and grant contract are fully processed by the last business date of the following month of November.

Public Releases

All institutions must annually prepare a notice announcing their intention to operate the CACFP. This notice must include the USDA's income eligibility for reduced-price meals only. It must also include the statement that the institution does not discriminate against any participant because of race, color, national origin, sex, age or disability. The institution must send a copy of this public release, along with any other information it wishes to include, to one or more newspapers, grassroots organizations, radio or television stations that serve its area. The institution must keep one (1) copy for its files and send one (1) copy to the TDHS.

Whether or not the media uses the public release, the institution has fulfilled its responsibility when it sends the release to them. It is **NOT** necessary that the institution pay to have this notice appear in the newspaper or other media.

Any brochures, news articles, or bulletins the institution sends out to the public must also state the admission is open to all participants regardless of race, color, national origin, sex, age or disability.

TRAINING AND REVIEW REQUIREMENTS

Training Requirements

Each institution must annually train staff on all program duties and responsibilities before beginning operation of the CACFP. This training must emphasize food service procedures and record keeping requirements. Institutions must keep a written record to document the location and date of each training session, the names of the staff present and the topics covered. The workshops provided by the TDHS do not meet this requirement.

For sponsoring organizations, documentation of training activities must also include evidence of pre-approval visits to each new child care facility participating in the program.

Sample forms to document training activities are available, upon request, from TDHS staff.

Monitoring Personnel

To ensure the performance of the monitoring responsibility, adequate staff must be employed by all sponsoring personnel. All sponsoring organizations are required to have one Full-Time Equivalent staff year devoted to monitoring for every 25 – 150 sponsored centers. A Full-Time Equivalent (FTE) staff year is the amount of work that one person working full-time (i.e., 40 hours per week) would perform in a year. In addition, each position that performs monitoring must be located be located within 100 miles of all centers to be monitored by the position.

Review Requirements

Sponsoring organizations are required to monitor all facilities under their sponsorship to evaluate compliance with meal pattern, record-keeping and other program requirements. Each sponsoring organization must keep documents on file identifying the name, location and date of each facility reviewed; any problems noted; and the corrective action required and completed. In addition, each sponsoring organization must maintain records documenting the assistance and guidance that it has provided to a facility to complete corrective action(s).

A sponsoring organization must ensure that the meal services of each sponsored child care center is monitored subject to the following requirements:

1. Each center must be visited at least three times each program year to complete the monitoring reviews;

2. The monitoring visits to each center must occur not more than six months apart;

3. One of the required monitoring visits for each center must occur during the first six weeks of CACFP operations;

4. At least two of the monitoring visits to each center must be unannounced; and

5. The standard monitoring guide issued by the TDHS must be utilized to complete all feeding site reviews, and must be maintained for inspection by state and federal personnel.

ELIGIBILITY FOR MEAL REIMBURSEMENT

General

To operate the CACFP and receive reimbursement, all independent child care centers and sponsoring organizations must keep accurate records on the eligibility of enrolled participants for free and reduced-price meals. The level of reimbursement for meals served to eligible participants is based on the number and types of meals served and the income or categorical eligibility of the enrolled participant's household.

Participating centers may not claim reimbursement for any meals served to participants in excess of their license capacity.

Free, Reduced-Price and Paid Eligibility

The TDHS provides different reimbursement levels for free, reduced-price, and paid/ineligible categories. These rates of reimbursement are based on household size and income information identified in completed eligibility applications. All eligibility applications are valid for a period of one calendar year following the date of the determining official's signature. **This includes applications that are classified as free based on zero income.** To determine the appropriate reimbursement rate for any participant, the information provided on the eligibility application must be compared to the USDA's current eligibility guidelines. The USDA's eligibility guidelines are updated each July 1 and forwarded to all participating institutions. For a clarification of the free, reduced-price and paid classifications, please refer to the "Definitions" Section of this manual.

An institution may elect to classify all participants as paid in which the lowest level of meal reimbursement is received. In this event, there is no requirement for the completion of any eligibility applications.

Pricing and Non-Pricing Programs

The decision to operate a pricing or non-pricing program is to be made during the application process. These programs are distinguished below:

1. Non-pricing programs are those in which no separate charge is made for the meals served. The majority of institutions participating in the CACFP are non-pricing programs. Sponsoring organizations of child care homes cannot serve meals at a separate charge to children enrolled in homes, and therefore must participate as non-pricing programs. In a non-pricing program, if a payment is required, it is made in the form of a general tuition charge that covers all areas of child care services provided by the institution. There are no tuition payments specifically earmarked for food service. Money or labor cannot be exchanged for meals.

2. Pricing programs are those in which a participant is charged for the meal to make up the difference between the CACFP meal reimbursement and the actual cost of serving the meal. The separate identifiable charge is limited to "reduced-price" and "paid" meals served to participants. No separate charge may be made for "free" meals. Any separate charge imposed for reduced-price" meals shall not be more than 40 cents for a lunch or supper, 30 cents for a breakfast, and 15 cents for a supplement. Neither the participant nor any member of the family can be required to work in the food service program.

   Institutions that operate pricing programs must identify the following procedures in their applications for CACFP participation and observe these procedures in their program operations:

   a. The method that is utilized to accept applications for free and reduced-price meals;

   b. The method that is utilized to collect payments from participants who pay the full or reduced-price of the meal and that will protect the anonymity of the participants;

   c. The hearing procedure for parents or guardians who wish to challenge the eligibility determination made for participants; and

   d. The specific guidelines that must be followed concerning the charge that may be made for the meals.

PARTICIPANT ENROLLMENT REQUIREMENTS

General

Each institution must meet the enrollment requirements mandated by child care licensing regulations. In addition, each institution must have an enrollment form for each CACFP participant. The enrollment form must meet the following requirements:

1. Be updated annually and signed by a parent or guardian of the participant;

2. Identify the "normal" days and hours in care for each enrolled participant; and

3. Identify the meals to be received by each enrolled participant.

Age Limits

The age limit for children participating in the CACFP is 12 years, except for children of migrant families for which the age limit is 15.

Meals served to disabled persons over the age of 12 may be claimed for reimbursement only if a majority of participants enrolled are 18 years of age and younger. This policy applies to each individual facility rather than to a sponsoring organization as a whole.

Free and Reduced-Price Meal Application

All institutions claiming reimbursement for free or reduced-price meals must maintain adequate income eligibility documentation. Adequate documentation to confirm the free and reduced-price eligibility of each participant includes the following:

1. A current application must be on file when reimbursement is claimed for free or reduced-price meals. All applications must be renewed at least every twelve months. Institutions must certify and date each application within the same month as the parent/guardian signs the application. **All undated Free and Reduced-Price Meal Applications must be reclassified as paid (i.e., not eligible for free or reduced-price meal eligibility.)**

2. All applications on file must be properly completed. A complete application must contain:

    a. The participant's full legal name;

    b. The household case number for Families First cash assistance or Supplemental Nutrition Assistance Program, **or** documentation of participant's income eligibility for the Head Start Program, if applying for the categorical eligibility of the participant for free meal reimbursements;

c. The names of the household members; the current gross income of each household member; and the last four digits of the social security number of the adult who completes the application or the primary wage earner, if applying for the income eligibility of the participant for free or reduced-price meal reimbursements; and

d. For all applications, the signature of the adult household member completing the application, and the current date.

3. The mark made on a free and reduced-price application by an adult household member who cannot write must be witnessed by another adult who is not the determining official for the institution.

4. TennCare recipients are not categorically eligible.

The Eligibility Application Forms (i.e., Free and Reduced-Price Application Forms) are available from TDHS staff.

Determination of Eligibility

The determining official(s) of each institution must determine the appropriate classification of each participant application based on the eligibility requirements for free, reduced-price, or paid (ineligible) meals. All determinations must be based on the current USDA income guidelines for the same month that the applications are received. The determining official(s) must also sign and date each application.

Categorical Eligibility

Free meal reimbursement rates are paid for CACFP participants who are determined to be categorically eligible for these rates. To be categorical eligible for free meal rates, participant households must be currently receiving Families First cash assistance or Supplemental Nutrition Assistance Program; or must have household members who are income eligible enrollees of the Head Start Program. These households will not be required to provide the names, income information, or last four digits of the Social Security numbers for all adult household members on the CACFP application. The household's Food Stamp or Families First cash assistance case number must be identified on the application and the application must be dated and include the signature of the person completing the application. TennCare recipients are not categorically eligible.

Determination of Income Eligibility

If a CACFP application is made for any participant who is not a recipient of the Families First cash assistance or Supplemental Nutrition Assistance Program; or an income eligible Head Start Program enrollee, the names and income information for the household members, and the last

four digits of the Social Security number for an adult household member must be listed to determine the eligibility for free and reduced-price meal payments.

Income

Income is defined as income before deductions for income taxes, employees' social security taxes, insurance premiums, bonds, etc. It includes monetary compensation for services, including wages, salaries, commissions, fees, and net income from non-farm, self-employment. **Net income for self-employed business persons is figured by subtracting their business expenses from their gross receipts.** Income includes unearned income from welfare, pensions, support payments, unemployment compensation, social security and other cash income received or withdrawn from any other source, including savings, investments, trust accounts and other resources. Individual Retirement Account and Keogh withdrawals are also considered income.

Foster and Institutionalized Children

Foster children are a ward of a court or the Tennessee Department of Children Services and are placed in private homes. The court or state agency retains legal responsibility for foster children, and each foster child must be considered as a household of one. These children are categorically eligible for free meals.

Institutionalized children are those who reside in a residential facility which the State of Tennessee has determined is not a boarding school. Each of these children is to be considered as a household of one. The application for each foster or institutionalized child must be signed by an adult member of the foster home or the social service agency responsible. The last four digits of the social security number of the adult is not needed for the foster child's application.

Identification of Categories of Eligibility of Children

CACFP rules prevent any obvious identification of children's categories of eligibility. The information submitted on free and reduced-price meal applications and the eligibility status is CONFIDENTIAL. Programs that have a separate charge for meals must be careful not to identify the categories of eligibility during the actual meal service.

Release of Information

Information on participants is to be shared professionally only with the authorization of the participant’s parents or guardians verified by a signed Release of Information Form which is available from TDHS staff.

RECORD-KEEPING

Retention of Records

Institutions must develop procedures for collecting required information from all child care facilities under their program. Institutions may include copies of proposed forms to be used in collecting daily meal service information with their CACFP applications. The TDHS will review all forms to determine whether they are adequate for collecting the required information. The TDHS may require specific forms for keeping daily records. The books, records, and documents of each institution, which are related to work performed or money received under the CACFP, must be maintained for a period of three (3) full years, and are subject to audit at any reasonable time and upon reasonable notice by the TDHS, the Tennessee Comptroller of the Treasury, or their duly appointed representatives. The records must also be readily available for monitoring or audit purposes by the TDHS, Tennessee Comptroller of the Treasury, U.S. Department of Agriculture and other appropriate state and federal agencies.

Program Records

An institution must maintain:

1. A properly completed application for CACFP income eligibility for each enrolled participant who is determined eligible for free or reduced-price meal reimbursement;

2. All enrollment forms required by child care licensing and CACFP federal regulations for each participant;

3. Daily attendance records by each participant's full legal name;

4. Menus that meet the following requirements:

    a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

    b. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

    c. All food items that are identified on the menus are supported by purchase receipts;

    d. The specific date of use is identified, including the day, month and year; and

e. Each menu is posted in a conspicuous place for all parents and guardians to observe.

5. **It is recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services;**

6. Menus for meals delivered by an outside contracting entity, such as hospitals or food service management companies, which meet the above requirements;

7. Daily meal counts listing the number of meals by type and age group served to children (claiming percentage); or daily meal counts by name, eligibility and meal type (actual count);

8. If applicable, daily meal counts listing the number and type of meals served to staff with the understanding that meals served to staff may not be claimed for CACFP reimbursement;

9. A monthly milk inventory which is completed on the last day of operation for each month and which lists the amount of milk purchased and not used during the month and available at the close of business on last day of operation for the month;

10. Documentation of annual training session date(s) and location(s), participants' names, and the topics covered in the session(s) to indicate that required training has been provided for cooks, teachers, administrators, etc. on all aspects of CACFP;

11. Copies of food and non-food related invoices, receipts, or other records required by TDHS to document administrative costs, operating costs and income to the CACFP;

12. Copies of all claims for reimbursement submitted to TDHS;

13. Documentation of eligibility of a proprietary child care center (i.e., copies of child care certificates or free/reduced-price eligibility applications) for each month in which CACFP meal payments are received;

14. Receipts for all program payments made by TDHS;

15. Reports of any changes in the hours of shifts and in the meal types and meal service times observed by the institution;

16. Documentation about the site, date, and details of each facility reviewed, if multi-site sponsoring organization;

17. Documentation of the dates and amounts of disbursements to each facility, if a multi-site sponsoring organization for unaffiliated facilities;

18. A current child care license; and

19. A current health inspection.

Additional Records

The TDHS may require additional records other than those which are listed in this section. The TDHS can provide assistance in meeting all record-keeping responsibilities. All required records must be available for review by the TDHS, Tennessee Comptroller of the Treasury, USDA and other appropriate state and federal agencies.

MEAL PATTERNS AND SERVICES

Meal Patterns

All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement. These required meal patterns are as follows:

Infant Meal Pattern
Breakfast

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breastmilk[2,3]	**4-8 fluid ounces of formula[1] or breastmilk[2,3];** **0-3 tablespoons of infant cereal[1,4]**	**6-8 fluid ounces of formula[1] or breastmilk[2,3]; and** **2-4 tablespoons of infant cereal[1]; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Lunch or Supper

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-8 fluid ounces of formula[1] or breast milk[2,3];** **0-3 tablespoons of infant cereal[1,4] ; and** **0-3 tablespoons of fruit or vegetable or both[4]**	**6-8 fluid ounces of formula[1] or breast milk[2,3];** **2-4 tablespoons of infant cereal[1] ; and/or** **1-4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or** **½-2 ounces of cheese; or** **1-4 ounces (volume) of cottage cheese; or** **1-4 ounces (weight) of cheese food or cheese spread; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Supplement (Snack)

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-6 fluid ounces of formula[1] or breast milk[2,3]**	**2-4 fluid ounces of formula[1] or breast milk[2,3], or fruit juice[5]; and 0-½ bread[4, 6] or 0-2 crackers[4, 6]**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.
[5] Fruit juice must be full-strength.
[6] A serving of this component must be made from whole-grain or enriched meal or flour.

Breakfast for Children
(Select All Three Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	½ cup
1 grains/bread[3] bread or cornbread or biscuit or roll or muffin or cold dry cereal or hot cooked cereal or pasta or noodles or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

Lunch or Supper for Children
(Select All Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	¾ cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish[4] or	1 oz.	1½oz.	2 oz.
alternate protein product or	1 oz.	1½ oz.	2 oz.
cheese or	1 oz.	1½ oz.	2 oz.
egg or	1/2	3/4	1
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds[5] or	1/2 oz.	3/4 oz.	1 oz.
yogurt[6]	4 oz.	6 oz.	8 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

SUPPLEMENT (Snack) for Children
Select Two of the Four Components for a Reimbursable Snack

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread[3]			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish[4] or	1/2 oz.	1/2 oz.	1 oz.
alternate protein product or	1/2 oz.	1/2 oz.	1 oz.
cheese or	1/2 oz.	1/2 oz.	1 oz.
egg[5] or	½	1/2	1/2
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds or	1/2 oz.	1/2 oz.	1 oz.
yogurt[6]	2 oz.	2 oz.	4 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

USDA Food Buying Guide

The USDA Food Buying Guide must be utilized for more specific information regarding food service and meal patterns. The guide is available at the following web link:

http://tn.gov/humanserv/adfam/ccfp_forms/ccfp_14.html

Meal Service Restrictions

Child care centers are subject to the following meal service restrictions:

1. May be approved to serve and be reimbursed for up to two meals and a snack, or two snacks and one meal per participating child per day;

2. May not claim reimbursement for meals served to participants who are not enrolled;

3. May not claim reimbursement for meals served to participants that exceed the authorized licensed capacity of the center at any one time;

4. May claim meals served to children during specific time intervals or "shifts", providing that the license capacity of the center is not exceeded based on TDHS regulations, and that the "shifts" are supported by accurate arrival and departure records maintained by the center on a daily basis;

5. Must serve meals that meet the meal pattern requirements established by the USDA;

6. Must have two (2) hours between the end of one meal service and the beginning of another meal service, except that there must be four (4) hours between the end of lunch and the beginning of supper when no afternoon snack is served between the lunch and supper meals;

7. Must not allow the service of the lunch and supper to last more than two (2) hours;

8. Must not allow the service of breakfast and snacks to last more than one (1) hour;

9. Must begin serving supper no earlier than 5:00 p.m. or and no later than 7 p.m.; and end the serving no later than 8 p.m;

10. May claim only those meals types that have been approved by the TDHS; and

11. Must serve all meals during the times identified in applications approved by the TDHS.

Methods for Provision of Meals

Meals may be provided through the following means:

1. On-Site Preparation: Meals may be prepared at the same site where they are to be served.

2. Central Kitchen: Meals may be prepared in one central kitchen and transported to the participating feeding sites.

3. Purchasing From a School: Meals either in bulk or as individual units may be purchased from a school food service. Institutions which receive meals from a school must enter into a written contract with that school. All pertinent CACFP requirements must be embodied in the written contract between the institution and school. Signing a contract does not relieve the institution of its program responsibilities for monitoring and record keeping. The school must provide dated copies of the menus for all meals served.

4. Purchasing From a Food Service Management Company or Commercial Vendor: Food service management companies or commercial vendors are profit oriented organizations (other than schools) which may be used to prepare and deliver meals to the feeding sites. Institutions which receive meals from a food service management company must enter into a written contract with the company. All such contracts exceeding $100,000 must be awarded through an invitation to bid and must be approved by TDHS prior to their execution. Signing a contract with a food service management company does not relieve the institution of its program responsibilities for monitoring and record-keeping. A copy of the contract between each institution and food service management company must be submitted to TDHS for approval prior to the beginning of program operations under the contract.

Procurement Standards

While centers and sponsors have the responsibility to prepare and serve reimbursable meals in their own facilities, they may agree to obtain program food items or meals through other public or private sources.

Those centers and sponsors which purchase meals, food items, supplies, equipment, or related services from food service management companies, or commercial vendors must adhere to the procurement provisions governing the program as found in 7 CFR Part 226.22

In addition, private non-profit institutions are required to follow the federal regulations at 7 CFR 3019 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations provide for a "small purchase threshold" of $100,000.

This means that all purchases made with USDA funds at or below $100,000 are considered "small purchases" and may be acquired with an informal process of obtaining quotes.

Public institutions must follow the federal regulations at 7 CFR 3016 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations establish the "small purchase threshold" as the lower of $100,000 or the threshold set by state or local law.

All procurements of $100,000 or more for meals, equipment, or other services must be formally advertised and meet the following requirements:

1. The TDHS must be notified and public announcement of the bid solicitation must be made at least 14 calendar days before the opening of bids;

2. The bid announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the procurement item;

3. The TDHS must approve in advance the Invitation for Bid (IFB) and Contract form for the procurement, and the IFB must be made available so that all prospective bidders will have an equal chance of receiving the contract award;

4. The IFB may not provide for loans or other monetary benefits, terms or conditions to be made by food service management companies or commercial vendors;

5. Bids must be opened publicly;

6. Bids must be submitted to the TDHS for approval; and

7. The TDHS must be informed as to which bid will be chosen. If the lowest bid is not accepted, a justification for awarding the contract to a higher bidder must be provided.

In addition, a code of conduct must be maintained that prevents the exchange of anything of monetary value between the contractor and the center or sponsor that might influence the award or prohibit maximum open and free competition. Center and sponsor staff are to be alert to conflict of interest situations and avoid them.

Styles

The following meal service styles may be observed in the CACFP:

1. Pre-portioned: The minimal requirement or more of food for each required components is given on a plate or tray.

2. Family Style: Enough food must be placed on each table to provide minimum portions or more of each required components for all at the table, and to accommodate program adult(s) supervising meal service at the table if they eat.

   Some amount of each required component must be served to each participant and at least the minimum regulatory portions must be offered to the participant. When the full regulatory portion is not initially served, supervising adults must assume the responsibility of actively encouraging acceptance of the full portion during the course of the meal. Required milk portions must be served to participants.

Regardless of the meal service style utilized, all institutions must prepare and serve the minimum required amounts of all required meal components. **Unitized meals, which offer all meal components to the child at one time, must be served.**

Each institution is strongly encouraged to have available at each meal service reasonable amounts to offer second helpings if requested. However, institutions may not claim "second" meals for reimbursement.

NUTRITION AND FOOD SERVICE REQUIREMENTS

Meal Patterns

Each child care center participating in the CACFP must serve one or more of the following meal types:

1. Breakfast;
2. Lunch;
3. Supplemental food (snacks); and/or
4. Supper.

Centers may claim CACFP reimbursement for not more than two meals and one supplement (or two supplements and one meal) provided daily to each participant.

A center may claim only the meal types specified in its TDHS approved application in accordance with CACFP meal pattern requirements.

"Offer Versus Serve" Method of Meal Service

Institutions that serve meals prepared by school food authorities (SFAs) participating in the National School Lunch (NSLP) and School Breakfast Programs (SBP) may use the offer versus serve (OVS) meal service. The CACFP regulations at 7 CFR 226.20(o) permit the substitution of NSLP meal patterns, including the use of OVS, when meals are prepared by SFAs and served by schools or other institutions participating in the CACFP. **Among the CACFP institutions that may benefit from the use of OVS are those caring for school-age children in outside-school-hours care centers or at-risk afterschool care centers. These centers may be operated by the school or SFA or by another CACFP institution that contracts with the SFA for meals.**

Institutions electing to use OVS must implement it in accordance with the method used by the school providing the meals. OVS may not be used with snack services under either the NSLP or the CACFP.

Generally, OVS is not considered appropriate for preschool children because it may interfere with program nutrition goals and the CACFP institution's efforts to introduce new foods to children. Rather, CACFP institutions are encouraged to consider using the family style meal service as a way to provide younger children some choice in the types and amounts of food selected.

Fat-Free and Low-Fat Milk

Milk served in the CACFP must be consistent with the most recent version of the Dietary Guidelines for Americans. The 2010 Dietary Guidelines recommend that persons over two years of age consume low-fat (1%) or fat-free (skim) fluid milk. Therefore, fluid milk served in CACFP to participants two years of age and older must be: fat-free or low-fat milk, fat-free or low-fat lactose reduced milk, fat-free or low-fat lactose free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk. Milk served must be pasteurized fluid milk that meets State and local standards, and may be flavored or unflavored. Whole milk and reduced-fat (2%) milk may not be served to participants over two years of age.

Because the Dietary Guidelines for Americans do not address milk served to children under the age of two, the requirements relating to children in this age group are unchanged at this time. Whole milk and reduced-fat (2%) milk may be served to these participants.

Non-Dairy Beverages

For children who cannot consume fluid milk due to medical or other special dietary needs, other than a disability, non-dairy beverages may be served in lieu of fluid milk. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk, as outlined in the National School Lunch Program (NSLP) regulations at 7 CFR 210.10 (m)(3). The Tennessee Department of Education has identified three soy milk products meeting the USDA guidelines for milk substitutes. The three milks are Pacific Ultra Soy, 8th Continent Soy Milk, and Pearl Organic Soymilk.

Parents or guardians may now request in writing non-dairy milk substitutions, as described above, without providing a medical statement. As an example, if a parent has a child who follows a vegan diet, the parent can submit a written request to the child's caretaker asking that soy milk be served in lieu of cow's milk. The written request must identify the medical or other special dietary need that restricts the diet of the child. Such substitutions are at the option and the expense of the institution or facility. The requirements related to milk or food substitutions for a participant who has a medical disability and who submits a medical statement signed by a licensed physician remain unchanged.

Substitutions

CACFP regulations allow substitutions of required food items if individual participants are unable, because of medical or other special dietary need, to consume such foods. All substitutions made because of medical needs must be supported by a statement from a recognized medical authority. Individual menus need not be maintained for each such participant.

A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

Special Notes for Infant Meals

Either breastmilk or iron fortified infant formula must be served at each infant meal. In addition, each meal should be of a texture and consistency appropriate for the age of the infant, and should be served consistent with the infant's eating habits. Solid foods should be introduced gradually to infants, age four months and older, to ensure their nutritional well being. In serving and claiming infant meals, please note the following:

1. It is recommended that breastmilk be served in place of iron-fortified formula for infants, age birth through 11 months of age;

2. For those infants which are breast fed and who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be served with additional breastmilk offered if the infant remains hungry;

3. An infant meal is reimbursable if the iron-fortified infant formula is supplied by either the child care provider or the parent or guardian;
4. Cow's milk must **not** be served to infants who are less than 1 year of age;

5. Infant formula means any iron-fortified formula intended for dietary use solely as a food item for normal healthy infants, and excludes those formulas specifically designed for infants who have metabolism, digestive or absorptive problems unless supported by a medical statement.

6. Infant formula must be served in a liquid state at recommended dilution;

7. Infant formula and dry infant cereal must be iron-fortified;

8. Meals that are served to infants, age birth through 7 months of age, and that contain only breastmilk (as expressed by the mother) or only iron-fortified infant formula supplied by either the child care provider or the parent or guardian may be claimed for reimbursement;

9. Meals that are served to infants, age 8 months through 11 months, must include all other required components to be furnished by the child care provider to be eligible for CACFP reimbursement;

10. Fruit juice, when served as a snack component, must be full-strength;

11. The serving of orange and grapefruit juice should be avoided because they are more likely to cause an allergic reaction;

12. Bread or crackers must be made from whole-grain or enriched flour; and

13. Nuts, seeds and nut butters are not allowed as a meat alternate.

Commodities

Under the CACFP, participating child care centers receive cash-in-lieu of commodities as part of the reimbursement for eligible meals served. However, centers participating in the CACFP cannot participate in the Food Distribution Program simultaneously.

Prohibition on the Use of Home Canned or Hermetically-Sealed Food

As provided by Section 1670-1-1-.02 of the Tennessee Restaurant Sanitation Code, the "... use of Home Canned or hermetically-sealed food that was not prepared in a food processing establishment is prohibited."

REIMBURSEMENT

Methods of Reimbursement

Meal payments may be provided through two methods. The most used method is claiming percentages. Under the claiming percentages method of reimbursement, a center reports the numbers of each type of meal served during a month and the numbers of children in the free, reduced-price and paid eligibility categories. Reimbursement payments are then calculated based on the percentage of children in each eligibility category multiplied by the federal rates of reimbursement multiplied by the number of meals. There is less record-keeping requirements in that a center does not have to record the number of meals served separately to the free, reduced-price and paid children.

To be included in the number of free, reduced-price and paid participants that are reported for a claim period, each program participant must be appropriately enrolled for care and be in attendance for at least one day in the claim period. **Any income eligibility application expiring during a month is to be included in determining the claiming percentages for the month.**

Under the actual count method of meal reimbursement, a center must record the meals served by participant name. This method of reimbursement is used by less than 1% of the centers currently participating in the program. DHS will use the claiming percentages method unless otherwise advised.

Claims for Reimbursement

All independent child care centers, outside-school-hours centers, and sponsoring organizations of child care centers must submit to the TDHS accurate monthly reports on the number of meals served. Claims for partial months cannot be accepted. Reimbursement claim forms must be received by the TDHS within the time frame identified in the CACFP Grant Agreement. Accurate and complete documentation must be on file to support each claim submitted for reimbursement.

Late/Revised Claims for Reimbursement

Claims for reimbursement must be submitted on a monthly basis to the TDHS. Claims for partial months are not accepted. All completed and signed claim forms must be received by the TDHS within 30 days following the close of the claiming period. Any claim received more than 30 days following the close of a claiming period is considered a "late claim". A "late claim" received less than 60 days following the close of a claiming period may be paid providing an acceptable explanation for the late submission is provided, and the "late claim" does not exceed the one revised claim per sponsor per month policy.

If a "late claim" is received more than 60 days following the close of the claiming period, the claim may be paid only if the following conditions are met:

1. An acceptable explanation for the late submission is received;

2. The "late claim" does not exceed the one revised claim per institution per month policy, and

3. The provisions of Policy Memorandum 226.10-2 issued by the USDA are met. As provided by this federal memorandum, a claim received more than 60 days following the close of the claiming period may be paid if the affected institution has not received payment during the past 36 months for another claim received more than 60 days following the close of the claiming period. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the close of the claiming period. All revised claims are to be limited to one per month.

Rates of Reimbursement

Meal payments are based on rates established annually by the USDA. The meal payment rates for child care centers are based on the eligibility of participating children and on the type of meals served. The eligibility of participating children is divided into three categories: free, reduced-price and paid. The highest meal payments are provided for children who are placed in the free eligibility category. The lowest meal payments are provided for children who are placed in the paid category. To determine the eligibility category of each participating child, an income eligibility application must be completed by a parent or guardian of each child. Each completed application must then be reviewed by an official of the center who determines whether the application should be approved for free, reduced-price or paid meal payments. If an application is not returned by a parent or guardian, or the application does not meet the requirements for the free and reduced-price eligibility categories, the application must be placed in the paid category.

SPONSORSHIP OF UNAFFILIATED CENTERS

Records to Support Program Costs

Sponsoring organizations of unaffiliated centers must maintain records of their administrative costs, if any portion of the meal payments received from the TDHS are used for administrative purposes. The sponsored centers are required by CACFP law and regulations to keep documentation of operational costs associated with the cost of labor or food for meals served.

Information is contained below on the types of program costs and the records that must be kept to ensure that program funds are used properly.

Administrative Costs

Administrative costs are those costs incurred by sponsoring organizations of unaffiliated centers to administer the program. Administrative costs include those associated with planning, organizing, and managing the CACFP food service operation. Sponsors of unaffiliated centers may claim reimbursement of administrative costs providing these costs have been included in the sponsor's CACFP budget and have been approved by the TDHS. Administrative cost categories that may be claimed for reimbursement include the cost of labor, supplies, and mileage. A sample form to record administrative expenses is available from TDHS staff upon request. For more information, please refer to the Summary of the USDA Financial Instruction 796-2, Revision 3 contained in Exhibit 1 to this manual.

Administrative Labor Costs

Administrative labor costs for sponsors of unaffiliated centers include compensation paid by the sponsors for labor needed to administer the CACFP. This may include wages, salaries, employee benefits, and the share of taxes paid by the sponsor. The following tasks represent administrative labor:

1. Planning, organizing, and managing the food service operation under the CACFP;

2. Completing CACFP application materials;

3. Compiling records to complete the monthly reimbursement claim;

4. Preparing the monthly reimbursement claim; and

5. Monitoring program operations sponsored centers.

Sponsoring organizations of unaffiliated centers must document the cost of administrative labor to justify reimbursement under the CACFP. Records that must be maintained include payroll records and time and attendance reports. The value of volunteer labor may not be claimed under this or any other category of total program costs.

If some administrative staff only work part time on CACFP administrative duties, the cost of the labor must be prorated so that only CACFP administrative labor is claimed for reimbursement.

Administrative Supplies

Costs incurred for supplies used to administer the CACFP may be claimed for reimbursement by sponsors of unaffiliated centers. These cost may include:

1. Cost of printing or reproducing materials that are used for the CACFP; and

2. Telephone calls and postage necessary for the program.

Itemized receipts, invoices, and other records to document these costs must be kept. Some administering agencies may require either a monthly or yearly inventory of administrative supplies. The TDHS can provide additional information about these costs.

Mileage

If vehicles owned by a sponsoring organization of unaffiliated centers or one of the organization's employees are used for CACFP administrative duties (such as visits to centers for monitoring or training), the mileage allowance can be claimed for reimbursement. Records must be kept to document the mileage claimed.

The TDHS will provide sponsoring organizations of unaffiliated centers with information about the amount of reimbursement that can be claimed for mileage accrued while completing CACFP administrative duties.

Agreement Between Sponsors and Unaffiliated Centers

A separate agreement must be executed between a sponsoring organization and each unaffiliated center that is sponsored. The agreement serves to specify the responsibilities of each party under the program. Copies of the standard agreement are available from TDHS staff upon request.

Limitation on Use of Meal Reimbursements for Administrative Cost

Sponsoring organizations of unaffiliated centers may not utilize more than 15% of the meal reimbursements received for administrative costs.

ADULT CARE CENTER COMPONENT

ELIGIBILITY AND PARTICIPATION REQUIREMENTS

Participation Requirements

All adult care centers must be public, or have tax-exempt status under the Internal Revenue Code of 1954. Proprietary centers are also eligible for CACFP participation if at least 25% of their enrolled participants or licensed capacity are recipients of the Tennessee Home and Community Based Services Waiver. This waiver provides adult care benefits through the Medicaid Program.

The centers may participate in the CACFP either as independent centers or under the auspices of a sponsoring organization. However, public and private non-profit centers are not eligible to participate in the CACFP under the auspices of a for-profit sponsoring organization.

To participate in the CACFP, an adult care center must provide a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care. This must be a structured, comprehensive program that provides a variety of health, social and related support services to enrolled adult participants. The center must also provide care and services directly or under arrangements whereby the institution or organization maintains professional management responsibility for all such services. In addition, a center must have federal, state or local licensing or approval to provide care services to functionally impaired adults or individuals 60 years of age or older in a group setting outside their home on a less than 24-hour basis. Those adult centers which are complying with applicable procedures to renew licensing or approval may participate in the CACFP during the renewal process, unless the TDHS has information which indicates that renewal will be denied.

Regulatory Implementation of Requirements

Despite the obvious differences in the nature and ages of their participants, the USDA generally views adult care centers as eligible for the CACFP in essentially the same manner, and under the same terms and conditions, as child care centers which are eligible under the CACFP. However, the CACFP definition of "adult care center" includes only a narrow group of centers whose primary purpose is to provide highly specialized care for functionally impaired individuals. The regulations recognize that eligible centers may provide services to enrollees who may not be classified as functionally impaired but who are 60 years of age or older. CACFP reimbursement can be made available for meals served to those individuals as well. However, centers which provide care (or socialization and/or recreational opportunities) for only persons 60 years age or over and who are not functionally impaired are ineligible to participate. The USDA also considers organizations such as sheltered workshops to be ineligible because their overriding purpose is to provide employment and developmental opportunities (not the type of adult care intended for CACFP participation).

The USDA also considers substance abuse, vocational rehabilitation and social centers to be ineligible "since their primary purpose or services are other than to provide care to frail and elderly adults to avoid premature institutionalization by allowing families a respite from caregiving."

Eligibility Determination Process

The determination of CACFP eligibility is a two-step process in which the TDHS must make separate judgments regarding a center's licensing or approval status; and the nature and scope of its programs.

Licensing/Approval Requirements

To be eligible for the CACFP, adult care centers must be licensed or approved by federal, state or local authorities. "Approval" is granted by a state or local authority when an adult care center meets written standards or criteria which assure that the individuals receive care in a center which provides a safe and healthful environment. These standards may include requirements for staffing and available services, as well as such standards as fire safety, building layout and maintenance requirements.

Based on USDA guidance, the simple presence of public funding in an adult care center does not constitute "approval". Receipt of state or federal funds may constitute "approval" only when standards are established to ensure a safe and healthful environment for participants and a duly constituted authority determines that, in order to receive funds, these standards must be met.

There are three methods by which the State of Tennessee licenses and approves adult care centers. The Department of Intellectual Disabilities licenses various agencies to provide care to mentally retarded and mentally ill adults; the TDHS contracts with certain local institutions to provide approved care to adults under the Social Services Block Grant (SSBG) Program; and the TDHS is authorized to license adult care centers which serve ten or more adults for more than three hours a day in accordance with state law and regulations. Each of these approaches satisfies the CACFP requirements that adult care centers meet written standards, including the assurance that centers have been officially determined to provide a safe and healthful environment.

Program Standards

An applicant must also demonstrate compliance with the CACFP program standards for adult care. The key standards are: (1) The center must serve functionally impaired adults as defined in the CACFP regulations; (2) the center must provide a structured, comprehensive program of health, social and related support services; and (3) the center must develop and maintain an individual plan of care for each functionally impaired participant.

The USDA provides the following descriptions to expand and clarify two of these key requirements:

1. A "structured comprehensive program" provides a regular daily schedule of both group and individual activities which include health, social and related support services providing both physical and mental stimulation;

2. The group and individual activities should vary to accommodate the needs of the participants as identified in their individual plans of care; and

3. An "individual plan of care" is designed to maintain the participant at his or her current level or restore him or her to a level of self-care. The plan must be written and should, at a minimum, contain:

    a. An assessment of the individual's strengths and needs based on information which is obtained from the participant, family members, care-givers or physicians, and which includes a health profile, mental and emotional status, daily living skills and support services available to the individual, possible need for services from other service providers and a current medical examination; and

    b. A written plan of service, based on the assessment discussed above, which specifies (i) the goals and objectives of the planned care, (ii) the activities to achieve the goals and objectives, (iii) recommendations for therapy, (iv) referrals to and follow-up with other service providers as needed, and (v) provisions for periodic review and renewal.

If the TDHS determines that the above requirements are being met, a specific ratio of functionally impaired adults need not be enrolled to qualify the center for CACFP participation. For purposes of determining CACFP eligibility, it is sufficient that such a center cares for functionally impaired adults, not that the majority of its clients be functionally impaired. In addition, it is not necessary for CACFP purposes for participating centers to maintain an individual plan of care for non-impaired adults who are 60 years of age or over. Centers must, however, have a plan of care for each impaired enrolled adult.

Maintaining Management Responsibility

The CACFP definition of "adult care center" includes any licensed public institution or private non-profit organization which provides adult care services and which " . . . provides for such care and services directly or under arrangements made by the institution whereby the institution or organization maintains professional management responsibility for such services . . ." This definition does not conflict with the existing CACFP requirement that all participating centers must accept final administrative and financial responsibility for their operations under the CACFP, and which prohibits a center from contracting out specific management functions. Under no circumstances may a CACFP institution contract out functions such as monitoring, corrective action and preparation of application materials. It may contract for specific management tasks such as bookkeeping, data processing or the services of a nutritionist. However, an eligible adult center which provides for certain allowable services "under arrangements made by the institution" must do so under the requirement that the "institution or organization maintains professional management responsibility for such service."

Compliance with Non-Discrimination and Equal Opportunity Laws

All adult care centers must agree to fully comply with Title VI of the Civil Rights Act of 1964 (P. L. 88-352), Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Americans with Disabilities Act, and all requirements imposed by the regulations of the USDA (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50) and USDA directives or regulations issued pursuant to that Act and the Regulations, to the effect that, no person shall, on the ground of race, color, national or ethnic origin, sex, age, military service or disability, be excluded from participation in, be denied benefits of, or be otherwise subject to discrimination under the CACFP or any program or activity for which Federal or State funds are received. Centers must also agree to immediately take any measures necessary to effectuate these mandated non-discrimination and equal opportunity provisions.

In meeting these provisions, adult care centers must agree to compile data, maintain records and submit reports as required, to permit effective enforcement of Title VI and permit authorized USDA and TDHS personnel during normal working hours to review such records, books and accounts as needed to ascertain compliance with non-discrimination and equal opportunity laws. If there are any violations of these laws, the USDA and TDHS shall have the right to seek judicial enforcement.

In addition, sponsoring organizations and adult care centers must provide any auxiliary aids or services needed by their disabled staff to facilitate their participation at training sessions.

Functional Impairment or Age Requirement

The definition of "functional impairment" under the CACFP is as follows:

> 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. Activities of daily living include, but are not limited to, the following: adaptive activities such as cleaning, shopping, cooking, taking public transportation, maintaining a residence, caring appropriately for one's grooming or hygiene, using telephones and directories, or using a post office. Marked limitations refer to the severity of impairment, and not the number of limited activities, and occur where the degree of limitation is such as to seriously interfere with the ability to function independently.

The USDA included in this definition certain criteria contained in other federal regulations. These criteria relate specifically to an individual's ability to carry out the activities of daily living and to function independently and effectively. Only those criteria apply in making eligibility determinations under the CACFP.

Participating centers must make a CACFP eligibility determination for each adult in care who is less than 60 years of age using the CACFP definition of "functionally impaired adult." In addition, each center must maintain records which demonstrate that each enrolled person under the age of 60 meets this definition. Further, each adult care center must maintain records on the age of each enrolled person.

Enrollment Requirement

Participating institutions may not claim reimbursement for meals served to persons who are not enrolled, or for meals served to participants in excess of the institution's authorized capacity. According to the USDA, an "enrolled eligible participant" is an individual registered with a center to receive care. The attendance status (full-time, part-time, permanent, temporary, regular or sporadic) of the individual is irrelevant. Any registered individual eligible for CACFP benefits (i.e., functionally impaired or 60 years of age or older) must be included in all enrollment counts for determining CACFP eligibility and receipt of program reimbursement.

"Drop-in" adults who eat meals at the center but are not registered to receive care at the center are not "enrolled." Center volunteers, regardless of age, who help with the meal service or other center activities cannot be considered enrolled in the center for purposes of receiving CACFP reimbursement (unless they are actually registered at the center with an individual plan of care and meet CACFP eligibility requirements).

Income Eligibility Requirements

Adult care centers must collect and maintain current family-size and income information and the last four digits of the social security numbers of adult household members for participants classified as eligible for USDA free and reduced-price meals. Also, documentation of the enrollment of participants not eligible for free or reduced-price meals must be maintained. Income information already on file at the center is not acceptable in place of a free and reduced-price application. All applications must be renewed at least every twelve months. Copies of the standard eligibility application are available from TDHS staff upon request.

The CACFP definition of "family" restricts the income to be counted to only that earned by the adult participant and his or her spouse and any dependents residing with the adult participant. In this regard, the term "dependent" means an individual or individuals who are economically dependent on the adult participant. Therefore, in the case of an adult participant who is residing with and being cared for by his or her children, the income of the children would not be counted when determining free or reduced-price meal eligibility.

There may be instances in which a spouse or dependent does not live continuously with the participant. That spouse or dependent continues to be considered a part of the participant's family as long as his or her usual residence is with the participant. Functionally impaired adults living with their parents are considered a "family" separate from their parents for the purpose of determining family-size and income.

When determining CACFP eligibility, "income" means income earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income received or withdrawn from any other source, including savings, investments, trust accounts and other resources. Individual Retirement Account and Keogh withdrawals are also considered income.

Free, Reduced-Price and Paid Eligibility

The TDHS provides different reimbursement levels for free, reduced-price, and paid/ineligible categories. These rates of reimbursement are based on household size and income information identified in completed eligibility applications. All eligibility applications are valid for a period of one calendar year following the date of the determining official's signature. **This includes applications that are classified as free based on zero income.** To determine the appropriate reimbursement rate for any participant, the information provided on the eligibility application must be compared to the USDA's current eligibility guidelines. The USDA's eligibility guidelines are updated each July 1 and forwarded to all participating institutions. For a clarification of the free, reduced-price and paid classifications, please refer to the "Definitions" Section of this manual.

Categorical Eligibility Requirements

Individuals enrolled in participating adult care centers are categorically eligible for free meals if they are members of Supplemental Nutrition Assistance Program households or if they receive SSI benefits. To establish categorical eligibility, centers must collect and maintain Supplemental Nutrition Assistance Program case numbers or SSI identification numbers in lieu of family-size and income information and the last four digits of the social security numbers. Since TennCare replaced the State's Medicaid Program on January 1, 1994, there is no apparent way to distinguish between those TennCare recipients who are and are not Medicaid eligible. Consequently, evidence of TennCare eligibility cannot be used in determining CACFP eligibility for adult participants.

Completing Eligibility Applications

If a functionally impaired or elderly adult is not able to complete an application for himself or herself, an adult family member or guardian may complete the application. However, if the participant is unable to complete the application and if no adult family member or guardian is available, the institution's staff may complete the application on the participant's behalf only if the participant is categorically eligible for free meals. The participant's file must contain documentation of his or her categorically eligibility. If the signature is provided by an individual other than the adult for whom the application is being made, a written statement that outlines the circumstances must be attached to the application.

Community Residence Requirements

Adult care centers are those which provide services to individuals in a group setting outside their homes on a less than 24-hour basis. Further, the purpose of adult care is to assist its participants to remain in the community, enabling families and other care-givers to continue caring for an impaired individual at home. Adult care is considered to be the final step before institutionalization and is intended to help impaired adults and their families or other care-givers to avoid institutionalization as long as possible.

Congress intended the CACFP to be expanded to include adults who "remain in the community" and reside with family members or other care-givers who benefit from the respite which adult care of these individuals provides. The USDA defines individuals that "remain in the community" as those who reside in their own homes alone or with spouses, children or guardians. Because they can no longer be considered as remaining in the community and their families have no need for the respite provided by adult care centers, the USDA considers individuals living in residential institutions to be ineligible under the CACFP. Residential institutions include (but are not limited to) the following: hospitals, hospices, nursing homes, asylums for the mentally ill or for the mentally or physically disabled, convalescent homes and apartment complexes designed only for the functionally impaired that provide meals and full-time care.

Eligibility in Mental Health Centers

Adult care clients who are being trained for employment do not meet the USDA definition of adult care recipients and are not eligible to participate in the CACFP. However, those who are receiving only socialization and basic self-help therapy are eligible for CACFP benefits even though they are in centers with ineligible persons.

Confidentiality

Federal rules require that there can be no obvious identification of needy participants. This is very important so as not to cause any embarrassment to any participant. Therefore, the information on file concerning the income eligibility application and the eligibility status is **confidential**.

Policy Statement

As a prerequisite to approval of the application or renewal agreement to participate in the CACFP, each adult care center must sign a pricing or non-pricing policy statement concerning free and reduced-price meals. Both statements provide that all meals will be served to the participating adults regardless of race, color, national origin, sex, age, or disability. In a non-pricing program, the meal cost is included in the overall tuition charge that addresses all care services. Therefore, no separate charge for meals is made during mealtime.

The TDHS can provide applying and renewing centers with guidance about the two standard policy statements.

Public Release

Adult care centers must annually prepare a public release to the local media announcing their intention to operate the CACFP in their facilities. This release must include a statement that the center does not discriminate against any participant because of race, color, national origin, sex, age, or disability.

A copy of this public release, along with any additional information the center wishes to include, must be sent to one or more local newspapers, or radio or television stations that serve the area. A copy of the release should be kept on file by the center and a copy sent to the TDHS. Whether or not the media actually uses the center's public release, the responsibility has been fulfilled when the release is sent to them.

Any brochures, news articles, or bulletins provided to the public by the center should state that enrollment is open to all participants regardless of race, color, national origin, sex, age, or disability. A sample public release that may be used by centers is available from the TDHS.

NUTRITION AND FOOD SERVICE REQUIREMENTS

Meal Patterns

Each adult care center participating in the CACFP must serve one or more of the following meal types:

1. Breakfast;

2. Lunch;

3. Supplemental food (snacks); and/or

4. Supper.

Centers may claim CACFP reimbursement for not more than two meals and one supplement (or two supplements and one meal) provided daily to each adult participant. A center may claim only the meal types specified in its TDHS approved application in accordance with CACFP meal pattern requirements.

Offer versus Serve

Adult care centers may utilize an "offer versus serve" option at all meals except snacks. This option provides that, while centers must offer all of the required servings of food components, participants may decline a certain number of food items.

The specific "offer versus serve" policy is as follows:

1. Each adult care center shall offer its adult participants all of the required food servings. However, at the discretion of the adult care center, adult participants may be permitted to decline:

    a. One of the four food items (one serving of milk, one serving of vegetable and/or fruit, and two servings of bread or bread alternate) required at breakfast;

    b. Two of the six food items (one serving of milk, two servings of vegetable and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at lunch; and

    c. Two of the five food items (two servings of vegetables and/or fruit, two servings of bread or bread alternate, and one serving of meat or meat alternate) required at supper;

2. The price of a reimbursable meal shall not be affected if an adult participant declines a food item.

Portion Sizes

Centers and any sponsoring organizations should consider the needs of the individuals involved when determining the amounts of food to be served and adjust portion sizes (within the regulatory minimum portion size limits) to meet the needs of adults. The USDA recommends that persons responsible for developing meals in these centers make use of information currently available with respect to the most beneficial dietary strategies. These would include choosing foods which are low in salt, sugar and fats, such as lowfat milk and fresh fruits and vegetables.

Substitutions

CACFP regulations allow substitutions of required food items if individual participants are unable, because of medical or other special dietary need, to consume such foods. Substitutions may occur with greater frequency in adult care centers than in child care centers due to the special dietary needs of elderly and functionally impaired persons. All substitutions made because of medical needs must be supported by a statement from a recognized medical authority. Individual menus need not be maintained for each such participant. A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

Family-Style Meals

CACFP regulations allow meals to be served in family-style settings in adult care centers.

Menus

To document compliance with CACFP meal pattern requirements, each center must maintain menus which meet the following requirements:

1. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

2. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

3. **All food items that are identified on the menus are supported by purchase receipts;**

4. The specific date of use is identified, including the day, month and year; and

5. Each menu is posted in a conspicuous place for all parents and guardians to observe.

It is also recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.

Commodities

Under the CACFP, participating adult care centers receive cash-in-lieu of commodities as part of the reimbursement for eligible meals served. However, centers participating in the CACFP cannot participate in the Food Distribution Program simultaneously.

School Food Service Facilities

If an adult care center obtains meals from a school food service facility, all pertinent CACFP requirements must be embodied in a written agreement between the center and school. The center is still responsible for meeting all applicable CACFP requirements.

Procurement Standards

While centers and sponsors have the responsibility to prepare and serve reimbursable meals in their own facilities, they may agree to obtain program food items or meals through other public or private sources.

Those centers and sponsors which purchase meals, food items, supplies, equipment, or related services from food service management companies, or commercial vendors must adhere to the procurement provisions governing the program as found in 7 CFR Part 226.22

In addition, private non-profit institutions are required to follow the federal regulations at 7 CFR 3019 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations provide for a "small purchase threshold" of $100,000. This means that all purchases made with USDA funds at or below $100,000 are considered "small purchases" and may be acquired with an informal process of obtaining quotes.

Public institutions must follow the federal regulations at 7 CFR 3016 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations establish the "small purchase threshold" as the lower of $100,000 or the threshold set by state or local law.

All procurements of $100,000 or more for meals, equipment, or other services must be formally advertised and meet the following requirements:

1. The TDHS must be notified and public announcement of the bid solicitation must be made at least 14 calendar days before the opening of bids;

2. The bid announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the procurement item;

3. The TDHS must approve in advance the Invitation for Bid (IFB) and Contract form for the procurement, and the IFB must be made available so that all prospective bidders will have an equal chance of receiving the contract award;

4. The IFB may not provide for loans or other monetary benefits, terms or conditions to be made by food service management companies or commercial vendors;

5. Bids must be opened publicly;

6. Bids more must be submitted to the TDHS for approval; and

7. The TDHS must be informed as to which bid will be chosen. If the lowest bid is not accepted, a justification for awarding the contract to a higher bidder must be provided.

In addition, a code of conduct must be maintained that prevents the exchange of anything of monetary value between the contractor and the center or sponsor that might influence the award or prohibit maximum open and free competition. Center and sponsor staff are to be alert to conflict of interest situations and avoid them.

Prohibition on the Use of Home Canned or Hermetically-Sealed Food

As provided by Section 1670-1-1-.02 of the Tennessee Restaurant Sanitation Code, the "... use of Home Canned or hermetically-sealed food that was not prepared in a food processing establishment is prohibited."

REIMBURSEMENT

Methods of Reimbursement

Meal payments may be provided through two methods. The most used method is claiming percentages. Under the claiming percentages method of reimbursement, a center reports, in part, the numbers of each type of meal served during a month and the numbers of adults in the free, reduced-price and paid eligibility categories. The computer software program of the TDHS then provides reimbursement payments based on the percentage of adults in each eligibility category multiplied by the federal rates of reimbursement multiplied by the number of meals. Under the claiming percentages method of reimbursement there is less record-keeping requirements in that a center does not have to record the number of meals served separately to the adults in the free, reduced-price and paid categories.

To be included in the number of free, reduced-price and paid participants that are reported for a claim period, each program participant must be appropriately enrolled for care and be in attendance for at least one day in the claim period. A**ny income eligibility application expiring during a month is to be included in determining the claiming percentage for the month.**

Under the actual count method of meal reimbursement, a center must record the meals served separately to the free, reduced-price and paid adults. This method of reimbursement is used by less than 1% of the centers currently participating in the program. TDHS will use the claiming percentages method for your center unless otherwise advised.

Claims for Reimbursement

All adult care centers and sponsoring organizations of these centers must submit to the TDHS accurate monthly reports on the number of meals served. Claims for partial months cannot be accepted. Reimbursement claim forms must be received by the TDHS within the time frame identified in the CACFP Grant Agreement.

Claim Edit Checks

All sponsoring organizations are required to establish and maintain the following claim edit checks:

1. Each sponsored facility is paid only for those meal types for which it has been approved to serve; and

2. The number of meals claimed by each sponsored facility does not exceed the number derived by multiplying approved meal types times days of operation times enrollment.

Late/Revised Claims for Reimbursement

Claims for reimbursement must be submitted on a monthly basis to the TDHS. Claims for partial months are not accepted. All completed and signed claim forms must be received by the TDHS within 30 days following the close of the claiming period. Any claim received more than 30 days following the close of a claiming period is considered a "late claim". A "late claim" received less than 60 days following the close of a claiming period may be paid providing an acceptable explanation for the late submission is provided, and the "late claim" does not exceed the one revised claim per sponsor per month policy.

If a "late claim" is received more than 60 days following the close of the claiming period, the claim may be paid only if the following conditions are met:

1. An acceptable explanation for the late submission is received;

2. The "late claim" does not exceed the one revised claim per institution per month policy, and

3. The provisions of Policy Memorandum 226.10-2 issued by the USDA are met. As provided by this federal memorandum, a claim received more than 60 days following the close of the claiming period may be paid if the affected institution has not received payment during the past 36 months for another claim received more than 60 days following the close of the claiming period. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the close of the claiming period. All revised claims are to be limited to one per month.

Rates of Reimbursement

Meal payments are based on rates established annually by the USDA. The meal payment rates for adult care centers are based on the eligibility of participating adults and on the type of meals served. The highest meal payments are provided for those adults who are placed in the free eligibility category. The lowest meal payments are provided for those adults who are placed in the paid category. To determine the eligibility category of each participating adult, an income eligibility application must be completed. Each completed application must then be reviewed by an official of the center who determines whether the application should be approved for free, reduced-price or paid meal payments. If an application is not completed by a parent, guardian or other authorized person, or the application does not meet the requirements for the free and reduced-price meal payments, the application must be placed in the paid category.

Ineligible Meals:

The following meals are ineligible for reimbursement:

1. Meals served to any adult participant who is not enrolled for care in the center;

2. Meals served in excess of the authorized capacity of each center;

3. Meals not identified in the center's approved application for CACFP participation are served; and

4. Meals are served that do not meet the meal pattern requirements.

Duplicate Reimbursement Under Title III and the CACFP

Adult care centers may receive funds under both the CACFP and Title III; however, they cannot receive benefits or reimbursement from both programs for the same meal served. A single meal may not be supported by funds from both CACFP and Title III. If a center claims reimbursement for a meal under the CACFP, it may not use any Title III funds to pay for the costs associated with that meal. This prohibition includes all benefits provided under Part C of Title III of the OAA, including commodities (or cash-in-lieu of commodities) authorized by the OAA and provided by the USDA, and nutrition grants authorized by the OAA and provided by HHS. In spite of this prohibition, an adult care center may use CACFP and Title III monies to fund different meals within the same meal service, or to fund different meal services (breakfast, lunch, supper or snacks).

CACFP facilities must ensure that the meals for which they claim CACFP reimbursement, whether prepared on-site or prepared by vendors, are not supported by Title III. This means that an adult care center receiving funds from both Title III and CACFP must implement a financial management system which demonstrates that Title III funds are not being used to support CACFP meals. In areas in which Title III funds are not disbursed on a per meal basis, it may be necessary for participating centers to develop cost-based accounting systems which identify all of the elements of costs incurred to provide meals. This is especially true of centers which use Title III benefits to buy kitchen appliances or other materials which may be used to produce all meals served in the center.

Vendors Using Title III Funds

A Title III center may sell some of its meals to other facilities, (thereby) passing Title III assistance on to buyers through lower prices. Some of the organizations purchasing such meals may be CACFP recipients. Since CACFP reimbursement may not be claimed for meals already receiving Title III assistance, CACFP facilities must ensure that Title III funds or commodities were not used in preparing the meals which they have bought. Adult care centers purchasing meals from other than clearly commercial vendors must make a determination that these meals

were not supported by Title III funds. The meal vendor should be able to provide them with this information.

Use of Other Funds to Support Meal Service

Some adult care centers currently receive monies other than Title III funds to support their meal service. Centers which receive such monies may use these other funds for meals claimed under the CACFP. However, since the National School Lunch Act restricts the use of CACFP funds disbursed to institutions to assist in meal production, the USDA considers CACFP reimbursement as their primary source of food assistance and all other sources as supplementary to it.

REVIEW AND TRAINING REQUIREMENTS

Review Requirements

Sponsoring organizations are required to monitor all facilities under their sponsorship to evaluate compliance with meal pattern, record-keeping and other program requirements. Each institution must keep documents on file identifying the location and date of each facility reviewed; any problems noted; and the corrective action required and completed. The institution must also maintain records documenting the assistance and guidance that it has provided to a facility to complete corrective action(s).

A sponsoring organization must ensure that the meals services of each sponsored adult care center is monitored subject to the following requirements:

1. Each center must be visited at least three times each program year to complete the monitoring reviews;

2. The monitoring visits to each center must occur not more than six months apart;

3. One of the required monitoring visits for each center must occur during the first six weeks of CACFP operations;

4. At least two of the monitoring visits to each center must be unannounced; and

5. The standard monitoring guide issued by the DHS must be utilized to complete all feeding site reviews, and must be maintained for inspection by state and federal personnel.

Pre-Approval Visits

Sponsoring organizations must conduct pre-approval (on-site) visits to adult care centers proposed for participation in the program. During a pre-approval visit, sponsor personnel must discuss program benefits and requirements and make sure that all involved staff are capable of providing the proposed food service. A sample form to perform this function is available from TDHS staff upon request.

Pre-Operational Training

Training is absolutely vital if the CACFP is to operate properly. Each center and sponsor must thoroughly train its personnel on all program duties and responsibilities before program participation is approved. This training must emphasize food service procedures and CACFP record-keeping requirements. Only those personnel who understand CACFP rules and requirements will be able to efficiently operate the program.

Annual Training

Each adult care center or sponsoring organization must provide training at least once a year for all local food service staff to review current program requirements. Also, new staff should be thoroughly trained before beginning their work in the program.

MEAL PATTERNS AND SERVICES

All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement. These required meal patterns are as follows:

BREAKFAST FOR ADULTS
(Select All Three Components for a Reimbursable Meal)

1 milk	**1 cup**	**fluid milk**
1 fruit/vegetable	**1/2 cup**	**juice,[1] fruit and/or vegetable**
1 grains/bread[2]	**2 slices** **2 servings** **1½ cups** **1 cup** **1 cup**	**bread or** **cornbread or biscuit or roll or muffin or** **cold dry cereal or** **hot cooked cereal or** **pasta or noodles or grains**
[1] Fruit or vegetable juice must be full-strength. **[2] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.**		

LUNCH FOR ADULTS
(Select All Four Components for a Reimbursable Meal)

1 milk	**1 cup**	**fluid milk**
2 fruits/vegetables	**1 cup**	**juice,[1] fruit and/or vegetable**
1 grains/bread[2]	**2 slices** **2 servings** **1½ cups** **1 cup** **1 cup**	**bread or** **cornbread or biscuit or roll or muffin or** **cold dry cereal or** **hot cooked cereal or** **pasta or noodles or grains**
1 meat/meat alternate	**2 oz.** **2 oz.** **2 oz.** **1** **1/2 cup** **4 Tbsp.** **1 oz.** **8 oz.**	**lean meat or poultry or fish[3] or** **alternate protein product or** **cheese or** **egg or** **cooked dry beans or peas or** **peanut or other nut or seed butter or** **nuts and/or seeds[4] or** **yogurt[5]**

[1] Fruit or vegetable juice must be full-strength.
[2] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[3] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[4] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch requirement.
[5] Yogurt may be plain or flavored, unsweetened or sweetened.

SUPPER FOR ADULTS
(Select All Three Components for a Reimbursable Meal)

2 fruits/vegetables	**1 cup**	**juice,[1] fruit and/or vegetable**
1 grains/bread[2]	**2 slices** **2 servings** **1½ cups** **1 cup** **1 cup**	**bread or** **cornbread or biscuit or roll or muffin or** **cold dry cereal or** **hot cooked cereal or** **pasta or noodles or grains**
1 meat/meat alternate	**2 oz.** **2 oz.** **2 oz.** **1** **1/2 cup** **4 Tbsp.** **1 oz.** **8 oz.**	**lean meat or poultry or fish[3] or** **alternate protein product or** **cheese or** **egg or** **cooked dry beans or peas or** **peanut or other nut or seed butter or** **nuts and/or seeds[4] or** **yogurt[5]**

[1] Fruit or vegetable juice must be full-strength.
[2] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[3] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[4] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the supper requirement.
[5] Yogurt may be plain or flavored, unsweetened or sweetened.

SUPPLEMENT (SNACK) FOR ADULTS
(Select Two of the Four Components for a Reimbursable Meal)

1 milk	**1 cup**	**fluid milk**
1 fruit/vegetable	**1/2 cup**	**juice,[1] fruit and/or vegetable**
1 grains/bread[2]	**1 slice** **1 serving** **3/4 cup** **1/2 cup** **1/2 cup**	**bread or** **cornbread or biscuit or roll or muffin or** **cold dry cereal or** **hot cooked cereal or** **pasta or noodles or grains**
1 meat/meat alternate	**1 oz.** **1 oz.** **1 oz.** **1/2** **1/4 cup** **2 Tbsp.** **1 oz.** **4 oz.**	**lean meat or poultry or fish[3] or** **alternate protein product or** **cheese or** **egg or** **cooked dry beans or peas or** **peanut or other nut or seed butter or** **nuts and/or seeds or** **yogurt[4]**

[1] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[2] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[3] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[4] Yogurt may be plain or flavored, unsweetened or sweetened.

USDA Food Buying Guide

The USDA Food Buying Guide is given as part of the initial application process and must be utilized for more specific information regarding food service and meal patterns.

Meal Service Restrictions

Adult care centers are subject to the following meal service restrictions:

1. May be approved to serve and be reimbursed for up to two meals and a snack, or two snacks and one meal per participating adult per day;

2. May not claim reimbursement for meals served to participants who are not enrolled;

3. May not claim reimbursement for meals served to participants that exceed the authorized licensed capacity of the center, at any one time;

4. Must serve meals that meet the meal pattern requirements established by the USDA;

5. Must have two (2) hours between the end of one meal service and the beginning of another meal service, except that there must be four (4) hours between the end of lunch and the beginning of supper when no afternoon snack is served between the lunch and supper meals;

6. Must not allow the service of the lunch and supper to last more than two (2) hours;

7. Must not allow the service of breakfast and snacks to last more than one (1) hour;

8. Must begin serving supper no earlier than 5:00 p.m. or and no later than 7 p.m.; and end the serving no later than 8 p.m; and

9. May claim only those meals types that have been approved by the TDHS.

10. Must serve all meals during the times identified in applications approved by the TDHS.

Methods for Provision of Meals

Meals may be provided through the following means:

1. On-Site Preparation: Meals may be prepared at the same site where they are to be served.

2. Central Kitchen: Meals may be prepared in one central kitchen and transported to the participating feeding sites.
3. Purchasing From a School: Meals either in bulk or as individual units may be purchased from a school food service. Institutions which receive meals from a school must enter into a written contract with that school. All pertinent CACFP requirements must be embodied in the written contract between the institution and school. Signing a contract does not relieve the institution of its program responsibilities for monitoring and record keeping. The school must provide dated copies of the menus for all meals served.

4. Purchasing From a Food Service Management Company or Commercial Vendor: Food service management companies or commercial vendors are profit oriented organizations (other than schools) which may be used to prepare and deliver meals to the feeding sites. Institutions which receive meals from a food service management company must enter into a written contract with the company. All such contracts exceeding $100,000 must be awarded through an invitation to bid and must be approved by TDHS prior to their execution. Signing a contract with a food service management company does not relieve the institution of its program responsibilities for monitoring and record-keeping. A copy of the contract between each institution and food service management company must be submitted to TDHS for approval prior to the beginning of program operations under the contract.

Styles of Meal Services

The following meal service styles may be observed in the CACFP:

1. Pre-portioned: The minimal requirement or more of food for each required components is given on a plate or tray.

2. Family Style: Enough food must be placed on each table to provide minimum portions or more of each required components for all at the table, and to accommodate program adult(s) supervising meal service at the table if they eat.

   Some amount of each required component must be served to each adult and at least the minimum regulatory portion must be offered to the participant.

   When the full regulatory portion is not initially served, supervising adults must assume the responsibility of actively encouraging acceptance of the full portion during the course of the meal. In any style meal service the institution must prepare and serve the minimum required amounts. Each institution is strongly encouraged to have available at each meal service reasonable amounts to offer second helpings if requested. Unitized meals, which offer all meal components to

the adult at one time, must be served. Institutions may not claim "second" meals for reimbursement.

Allowable Food Substitutions

Substitutions are allowed for medical reasons or other special dietary needs if the substitutions are ordered in writing by a recognized medical authority. Copies of the order should be on file at the institution's office and at the meal service site (if different). The order should specify the food or foods the participant is not to eat and the food or foods that may be substituted. Recognized medical authorities include, but are not limited to, physicians and registered nurses.

A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

RECORD-KEEPING

An efficient record-keeping system that supports all reimbursement payments received under the program must be established and maintained by adult care centers and any sponsors they may have. Since many records such as meal counts must be kept on a daily basis, a good management practice is to establish a regular pattern and, if possible, have the same people assigned to keep specific records. An orderly system for filing records is essential and will save time each month when your claim for reimbursement form is completed. In addition, all records should be readily available upon request for review or audit by the TDHS and representatives of the USDA.

Retention of Records

Records must be maintained for a minimum of 3 years after the end of the fiscal year to which they pertain. It is important that independent and sponsored centers establish an organized and integrated filing system so that all records required under this policy are easily accessible.

Training Records

Records of annual training sessions conducted by centers and sponsors must be maintained. These records must contain dates, locations, CACFP topics and procedures discussed and a listing of participants in attendance. A sample form to document staff training is available from TDHS staff upon request.

Review Records

The location and date of each monitoring review, any problems noted, and the corrective action required and completed must be documented and maintained on file by sponsoring organizations.

Daily Meal Service Records

Adult care centers must keep separate daily records on attendance, menus and meal counts to support their meal service claims, and submit copies of these records to any sponsors they may have. Daily meal count records must contain the number of meals served to enrolled adult participants by meal type (i.e., breakfast, lunch, supper or supplement). The TDHS will advise each institution of the appropriate document on which to maintain records concerning attendance, menus and meal counts. The documents used for this purpose will differ as to the institution's method of claiming meals (i.e., claiming percentages or actual count).

Daily Menu Records

Daily menu records must be maintained. The menus must meet the following requirements:

1. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

2. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

3. **All food items that are identified on the menus are supported by purchase receipts;**

4. The specific date of use is identified, including the day, month and year; and

5. Each menu is posted in a conspicuous place for all parents and guardians to observe.

It is also recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.

Centers must monitor their menus and food items served. Also, sponsors must monitor the menus and food services provided by their centers and give menu planning assistance to centers who are found to be not meeting the nutritional goals of the program. A sample menu planning worksheet is available from TDHS staff upon request.

Enrollment/Attendance Records

Records supporting the enrollment and daily attendance of the adults receiving care must be kept.

Income Eligibility Applications

At least once a year centers must collect eligibility applications from the adult households for which free or reduced-price meal reimbursements are to be received. Sponsoring organizations must also keep on file approved applications for the adult participants in their centers.

Additional Records

The TDHS may require additional records other than those which are listed in this section. The TDHS can provide assistance in meeting record-keeping responsibilities. All required records must be available for review by the TDHS.

SPONSORSHIP OF UNAFFILIATED CENTERS

Records to Support Program Costs

Sponsoring organizations of unaffiliated centers must maintain records of their administrative costs, if any portion of the meal payments received from the TDHS are used for administrative purposes. The sponsored centers are required by CACFP law and regulations to keep documentation of operational costs associated with the cost of labor or food for meals served.

Information is contained below on the types of program costs and the records that must be kept to ensure that program funds are used properly.

Administrative Costs

Administrative costs are those costs incurred by sponsoring organizations of unaffiliated centers to administer the program. Administrative costs include those associated with planning, organizing, and managing the CACFP food service operation.

Sponsors of unaffiliated centers may claim reimbursement of administrative costs providing these costs have been included in the sponsor's CACFP budget and have been approved by the TDHS. Administrative cost categories that may be claimed for reimbursement include the cost of labor, supplies, and mileage.

A sample form to record administrative expenses is available from TDHS staff upon request.

Administrative Labor Costs

Administrative labor costs for sponsors of unaffiliated centers include compensation paid by the sponsors for labor needed to administer the CACFP. This may include wages, salaries, employee benefits, and the share of taxes paid by the sponsor. The following tasks represent administrative labor:

1. Planning, organizing, and managing the food service operation under the CACFP;

2. Completing CACFP application materials;

3. Compiling records to complete the monthly reimbursement claim;

4. Preparing the monthly reimbursement claim; and

5. Monitoring program operations sponsored centers.

Sponsoring organizations of unaffiliated centers must document the cost of administrative labor to justify reimbursement under the CACFP. Records that must be maintained include

payroll records and time and attendance reports. The value of volunteer labor may not be claimed under this or any other category of total program costs.

If some administrative staff only work part time on CACFP administrative duties, the cost of the labor must be prorated so that only CACFP administrative labor is claimed for reimbursement.

Administrative Supplies

Costs incurred for supplies used to administer the CACFP may be claimed for reimbursement by sponsors of unaffiliated centers. These cost may include:

1. Cost of printing or reproducing materials that are used for the CACFP; and

2. Telephone calls and postage necessary for the program.

Itemized receipts, invoices, and other records to document these costs must be kept. Some administering agencies may require either a monthly or yearly inventory of administrative supplies.

The TDHS can provide additional information and guidance on the administrative costs which may be charged to the CACFP.

Mileage

If vehicles owned by a sponsoring organization of unaffiliated centers or one of the organization's employees are used for CACFP administrative duties (such as visits to centers for monitoring or training), the mileage allowance can be claimed for reimbursement. Records must be kept to document the mileage claimed.

A sample mileage record is available from TDHS staff upon request.

The TDHS will provide sponsoring organizations of unaffiliated centers with information about the amount of reimbursement that can be claimed for mileage accrued while completing CACFP administrative duties.

Agreement Between Sponsors and Unaffiliated Centers

A separate agreement must be executed between a sponsoring organization and each unaffiliated center that is sponsored. The agreement serves to specify the responsibilities of each party under the program. The agreement is to be maintained for each center that is sponsored and is not required for submission to the TDHS as part of the sponsor application for participation.

Copies of the standard agreement are available from TDHS staff upon request.

Meal Service Restrictions

The sponsored centers are subject to the following meal service restrictions:

1. May be approved to serve and be reimbursed for up to two meals and a snack, or two snacks and one meal per participating child per day;

2. May not claim reimbursement for meals served to participants who are not enrolled;

3. May not claim reimbursement for meals served to participants that exceed the authorized licensed capacity of the center at any one time;

4. May claim meals served to children during specific time intervals or "shifts", providing that the license capacity of the center is not exceeded based on TDHS regulations, and that the "shifts" are supported by accurate arrival and departure records maintained by the center on a daily basis;

5. Must serve meals that meet the meal pattern requirements established by the USDA;

6. Must have two (2) hours between the end of one meal service and the beginning of another meal service, except that there must be four (4) hours between the end of lunch and the beginning of supper when no afternoon snack is served between the lunch and supper meals;

7. Must not allow the service of the lunch and supper to last more than two (2) hours;

8. Must not allow the service of breakfast and snacks to last more than one (1) hour;

12. Must begin serving supper no earlier than 5:00 p.m. or and no later than 7 p.m.; and end the serving no later than 8 p.m;

13. May claim only those meals types that have been approved by the TDHS; and

14. Must serve all meals during the times identified in applications approved by the sponsoring organization.

Limitation on Use of Meal Reimbursements for Administrative Cost

Sponsoring organizations of affiliated and unaffiliated centers may not utilize more than 15% of the meal reimbursements received for administrative costs.

CHILD CARE HOME COMPONENT

ELIGIBILITY AND PARTICIPATION REQUIREMENTS

Sponsoring Organization

Child care homes may participate in the CACFP only through an eligible sponsoring organization. To be eligible to participate, sponsoring organizations must be:

1. Public institutions; or

2. Private non-profit organizations.

These organizations must agree to:

1. Accept final administrative and financial responsibility for operating the program in all homes they sponsor;

2. Assume responsibilities for submitting applications for participation for themselves and for the child care homes they sponsor;

3. Provide annual training and technical assistance;

4. Ensure that meals served meet the meal pattern requirements;

5. Establish procedures to collect and maintain all necessary program records from all homes they sponsor, and to prepare and submit a consolidated monthly reimbursement claim form;

6. Comply with requirements related to the financial aspects of the program;

7. Ensure proper use of donated commodities (if the sponsored homes receive them);

8. Agree not to contract out for the entire management of the program;

9. Complete and sign an agreement with each child care home provider they sponsor; and

10. Provide adequate supervisory and operational personnel for managing and monitoring the program, including the submission of the following information for each new child care home sponsored:

    a. Staff member(s) to monitor each home;

    b. Dates of the required pre-operational visit;

    c. Distance each home is located from the closest office of the sponsor;

d. Name(s) of the staff member(s) assigned to the closest sponsor office of each home; and

e. Address and telephone number of the closest office to each home.

The standard form to document the addition and termination of child care home providers is available from TDHS staff upon request.

In addition, each sponsor will be required to establish and maintain at least one (1) office with staff available during regular working hours that is located no greater than 100 miles from each existing and future child care home sponsored. At a minimum, each office is to contain a message recording system (i.e., telephone message machine/recorder or voice mail) which providers may access. Recorded telephone messages must be returned within 48 hours of receipt.

Review Requirements

A sponsoring organization must ensure that the meal services of each sponsored child care home is monitored subject to the following requirements:

1. Each home must be visited at least three times each program year to complete the monitoring reviews;

2. The monitoring visits to each home must occur not more than six months apart;

3. One of the required monitoring visits for each new home must occur during the first four weeks of CACFP operations;

4. At least two of the monitoring visits to each home must be unannounced; and

5. The standard monitoring guide issued by the DHS must be utilized to complete all feeding site reviews, and must be maintained for inspection by state and federal personnel.

Sponsors are to immediately terminate any provider found to be participating under more than one sponsor at any given time. Also, as a deterrent to this violation, we will suspend any such provider from the CACFP for a period of one (1) year from the date of termination. We will also require that the provider agree to repay any reimbursements received in violation of this policy before participation may continue.

Child Care Homes

To be eligible to participate in the CACFP, a child care home must be:

1. Licensed to provide non-residential child care services or approved to participate in the CACFP under the Alternate Approval Procedures at 7 CFR Part 226.6 (d) (3); and

2. Located in the private residence of the provider, or in the occupied or unoccupied private residence of another person or persons which may or may not be rented. Commercial properties, including churches or schools, are not eligible to participate as a CACFP child care home. In addition, no more than one (1) home per provider may participate in the program. In instances where more than one provider operates out of the same residence, both individuals must be licensed or CACFP approved at the same residence, care for different children on different operating shifts, and participate under the same sponsor.

In addition, a child care home may not provide child care services for any one enrolled child for 24 hours per day. Of course, this restriction does not apply to a provider's own children who participate in the child care service.

Finally, each provider must agree to:

1. Participate under the authority of a sponsoring organization;

2. Sign an agreement with the sponsoring organization that specifies the rights and responsibilities of both parties;

3. Prepare and serve meals that meet the program meal pattern requirements;

4. Maintain accurate records on daily menus, daily count of the number of meals served to enrolled children and providers' own eligible children, and daily count of the number of enrolled children in attendance;

5. Serve meals at no separate charge to enrolled children;

6. Promptly inform the sponsoring organization about any change in the number of children enrolled for care or any change in their licensing or CACFP approved status, or changes in meal types and meal service times;

7. Claim only those meal types that have been approved by the sponsoring organization for reimbursement;

8. Submit household size and income information to the sponsoring organization to document their own children's eligibility for meal reimbursements;

9. Meet the enrollment requirements mandated by child care licensing regulations or alternate approval policy;

10. Maintain an enrollment form for each CACFP participant that meets the following requirements:

    a. Is updated annually and signed by a parent or guardian of the participant;

    b. Identifies the "normal" days and hours in care for each enrolled participant; and

    c. Identifies the meals to be received by each enrolled participant;

11. Notify the Sponsoring Organization in advance whenever the provider is planning to be out of his/her home during the meal service period, and agree that if this procedure is not followed and an unannounced review is conducted when the children are not present in the home, claims for meals that would have been served during the unannounced review will be disallowed;

12. If so instructed by the Sponsoring Organization, distribute to the parents and guardians of the children in care a copy of the sponsoring organization's "Household letter and income eligibility application to determine Tier 1 payment eligibility for the children in care."

13. Agree that the Sponsoring Organization, TDHS, Tennessee Comptroller of the Treasury, U.S. Department of Agriculture and other appropriate state and federal agencies have the right to contact the parents and guardians of the children in care at the provider's child care home.

The standard agreement which specifies the responsibilities of sponsors and homes under the CACFP and which must be executed between the parties before participation may begin is available from TDHS staff upon request.

Children Who Can Benefit

Children enrolled in child care homes who are 12 years of age or under, or up to 15 years of age if they are children of migrant workers, are eligible to participate in the CACFP. The provider's own children in care are eligible only when the household income is at or below 185 percent of the poverty level and at least one (1) enrolled non-residential child for a licensed home is present and at least one (1) enrolled unrelated child for an alternative approved home is present and participating in the meal service. Provider's own children are defined as all residential children in the provider's household who are part of the economic unit of the family.

Foster children are a ward of a court or the Tennessee Department of Children Services and are placed in private homes. The court or state agency retains legal responsibility for foster children, and each foster child must be considered as a household of one. These children are categorically eligible for free meals.

Institutionalized children are those who reside in a residential facility which the State of Tennessee has determined is not a boarding school. Each of these children is to be considered as a household of one. The application for each foster or institutionalized child must be signed by an adult member of the foster home or the social service agency responsible. The last four digits of the social security number of an adult is not needed for the foster child's application.

The following conditions must be met in order for a provider to receive CACFP reimbursement for a foster child:

1. At least one non-residential child enrolled and receiving care in the provider's licensed home must be in attendance and participating in the meal service;

2. At least one (1) enrolled unrelated child for an alternative approved home is present and participating in the meal service; and

3. The foster child's presence in the home must be in compliance with State licensing requirements.

Special Notes for Infant Meals

Either breastmilk or iron fortified infant formula must be served at each infant meal. In addition, each meal should be of a texture and consistency appropriate for the age of the infant, and should be served consistent with the infant's eating habits. Solid foods should be introduced gradually to infants, age four months and older, to ensure their nutritional well being. In serving and claiming infant meals, please note the following:

1. It is recommended that breastmilk be served in place of iron-fortified formula for infants, age birth through 11 months of age;

2. For those infants which are breast fed and who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be served with additional breastmilk offered if the infant remains hungry;

3. An infant meal is reimbursable if the iron-fortified infant formula is supplied by either the child care provider or the parent or guardian;

4. Cow's milk must **not** be served to infants who are less than 1 year of age;

5. Infant formula means any iron-fortified formula intended for dietary use solely as a food item for normal healthy infants, and excludes those formulas specifically designed for infants who have metabolism, digestive or absorptive problems unless supported by a medical statement.

6. Infant formula must be served in a liquid state at recommended dilution;

7. Infant formula and dry infant cereal must be iron-fortified;

8. Meals that are served to infants, age birth through 7 months of age, and that contain only breastmilk (as expressed by the mother) or only iron-fortified infant formula supplied by either the child care provider or the parent or guardian may be claimed for reimbursement;

9. Meals that are served to infants, age 8 months through 11 months, must include all other required components to be furnished by the child care provider to be eligible for CACFP reimbursement;

10. Fruit juice, when served as a snack component, must be full-strength;

11. The serving of orange and grapefruit juice should be avoided because they are more likely to cause an allergic reaction;

12. Bread or crackers must be made from whole-grain or enriched flour; and

13. Nuts, seeds and nut butters are not allowed as a meat alternate.

Licensing Or Approval

Each child care home which participates in the CACFP must have a TDHS license to provide non-residential child care; or must receive approval to participate in the program under the CACFP Alternate Approval Policy by providing care for 4 or fewer unrelated children.

Restriction on Additional School-Age Children which Group Homes May Serve

In accordance with State law, the maximum number of children in a group home is 12 plus 3 additional school-age children. To receive meal reimbursements for the additional school-age children, a group home must have documentation from TDHS licensing personnel that authorizes the care for any additional school-age children.

Military Approval

Child care homes on military installations are regulated under Department of Defense instructions and standards. This military approval constitutes licensing and approval for homes located on military installations.

Renewal

Homes that are complying with procedures for renewing licenses or approvals may participate in the program during the renewal process, unless the sponsoring organization and/or TDHS has information that indicates that renewal will be denied. The TDHS State Office must be contacted

for additional guidance if the renewal process exceeds 90 days from the expiration date of the license.

Maximum Number of Participating Children

Each **alternate approved home** may receive CACFP meal reimbursements for related eligible children and for up to four (4) unrelated eligible children during a 24 hour period.

Each **licensed family child care home** may receive CACFP meal reimbursements for up to seven (7) eligible children in addition to the provider's own eligible children. However, the provider may not claim for reimbursement more than five (5) of the provider's own eligible children.

Each **licensed group home** may provide care for up to fifteen (15) eligible children, if the following conditions are met:

1. All children who are served above the initial license limit of 12 children must be of school-age; and

2. School-age child care is part of the overall program of care.

In consideration of a group home provider's own children, these children are included in the maximum number of children which the provider may serve under state licensing policy. Also, these children may participate in the CACFP if the following requirements are met:

1. The children are eligible for reduced-price meals based on completed applications that are on file with the CACFP sponsor; and

2. The children meet the definition of "providers own children" as described in this manual.

Separate Charge for Meal Services

Home providers may **not** establish a separate charge for meal services.

ALTERNATE APPROVAL POLICY FOR CHILD CARE HOMES NOT REQUIRED TO BE LICENSED

Eligibility for CACFP Participation

To be eligible for CACFP participation, a child care home must be licensed by the Department of Human Services (DHS) to provide child care services, or must meet the qualifications and requirements contained in these Alternate Approval Procedures. Any child care home that provides care for more than four (4) children, not related to the caregiver, for three (3) or more hours per day must be licensed by DHS in accordance with TCA 71-3-501. Those homes which provide care for four (4) or fewer children who are unrelated to the Providers do not have to be licensed by DHS to provide child care services, but must meet the qualifications and requirements contained in these Alternate Approval Procedures to be eligible for CACFP participation.

Definitions

CACFP means the Child and Adult Care Food Program authorized by section 17 of the National School Lunch Act, as amended.

USDA means the United States Department of Agriculture.

Alternate Approved Child Care Home means the private residence of a caregiver who provides child care for no more than four (4) unrelated children during a 24 hour period and who has been found by a CACFP Sponsoring Organization in compliance with the Alternate Approval Procedures established by the Tennessee Department of Human Services.

Alternate Approval Procedures means the procedures established by the Tennessee Department of Human Services to establish the CACFP eligibility of those child care homes who are not required to be licensed to provide child care based on the number of unrelated children in care.

Child or Children means children 12 years of age or under, children of migrant workers 15 years of age and under, and persons with mental or physical disabilities, as defined by the State, enrolled in an institution or a child care facility serving a majority of persons 18 years of age and under.

Provider or Child Care Provider or Primary Caregiver means a person 18 years of age or older who has voluntarily applied to operate, or who is operating a child care home through the Alternate Approval Procedures.

CACFP Sponsoring Organization means an agency that contracts with the Tennessee Department of Human Services to implement the Alternate Approval Procedures authorized by 7

CFR Part 226.6 (d) (2) and (3). The Alternate Approval Procedures may be implemented for those child care homes for which licensing is not available to establish their CACFP eligibility.

Self-Certification Form refers to a document issued by the Tennessee Department of Human Services and/or CACFP Sponsoring Organizations to a Provider not eligible for licensing. To be eligible for CACFP participation, each Provider will complete and return the Self-Certification Form to a CACFP Sponsoring Organization.

Infant means a child 6 weeks through 12 months of age.

Parent means a biological or adoptive parent, a guardian, or a custodian or foster parent with primary responsibility for a child.

Related Children means children of the following relationships by marriage, blood or adoption: children, step-children, grandchildren, siblings, step-siblings, nieces, and nephews of the primary caregiver. Related children also includes foster children who are in the custody of the primary caregiver.

Substitute means a person 18 years of age or older who is designated by the Provider and approved by the CACFP Sponsoring Organization to provide child care in the Provider's home in the Provider's absence.

TDHS means the Tennessee Department of Human Services

Unrelated Children means children who are not identified by the definition of "related children" as contained in this policy.

Basic Qualifications

To be eligible for CACFP participation based on the Alternate Approval Procedures, each Provider must meet the following basic qualifications:

1. Be at least 18 years of age;

2. Have good character and reputation and possess adequate intelligence, stability, and physical stamina to operate a child care home and to provide good child care;

3. Fully understand that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of the CACFP, or in the employment practices of the Provider on the grounds of race, color, national origin, sex, age or disability;

4. Fully complete and submit a Self-Certification Form for Alternate Approval which meets all requirements for CACFP eligibility as confirmed by a documented site visit conducted by a CACFP Sponsoring Organization; and

5. Provide child care at the location identified in the letter from a Sponsoring Organization which provides for the alternate approval.

In addition to meeting the qualifications identified above, each Provider is expected to notify his or her Sponsoring Organization of any change in his or her child care or CACFP operations, including a change of residence. This notification is to occur within five calendar days following the change.

The Alternate Approval provided by any Sponsoring Organization shall be for a period of one (1) year. At least 30 days prior to the end of the one-year term for the Alternate Approval, each Provider is to be notified by his or her Sponsoring Organization of the need to make application for the new one-year period. Sample letters for the notification of the Alternate Approval and denial of the Alternate Approval are attached. If other letters are to be utilized for these notifications, they must be submitted to and receive approval by DHS prior to their use. A copy of the letter to deny Alternate Approval (where another site inspection is either not requested within the 30-day period or the re-inspection maintains the denial status) is to be provided to the DHS within 30 days of the date of the denial letter.

Child Care Standards

Each Provider must meet the following child care standards:

1. At least one (1) adult caregiver shall be present and supervising the children at all times;

2. The Provider shall not be employed at any other occupation during the hours that child care is provided;

3. The total number of children in care shall not exceed four (4) unrelated children during a 24 hour period;

4. At least one (1) unrelated child must be in care at the time of each meal service that is claimed for CACFP reimbursement.

Health and Safety Requirements

Each Provider must meet the following health and safety requirements:

1. All caregivers, including the Provider, and all persons in the home shall be of such character and physical and mental status that the children's health, safety, and welfare are not threatened;

2. No person charged with or convicted of a crime against a child shall be permitted to care for children or to live in the Provider's home;

3. A written plan must be maintained on file to address emergency circumstances, including Provider illness, injury to or illness of a child, fire, or disaster situation;

4. At the time of enrollment and before any child care is provided, a record for each child must be established, maintained, annually updated and signed by the parent or guardian that includes the following:

   a. Child's name and date of birth;

   b. The name, address, place of employment, home telephone number, and work telephone number for each parent or guardian, including the telephone number at which the parent or guardian may be contacted during hours of care;

   c. The name and telephone number for the person to be contacted in the event of an emergency;

   d. The hours of the day and days of the week that child care is to be provided;

   e. The meals that are to be received by the child;

   f. The name(s) of any persons (other than the parents) to whom the child may be released;

5. A complete first aid kit must be maintained and the Provider must be familiar with its proper use;

6. Emergency phone numbers must be posted near the Provider's telephone for contacting local law enforcement, fire department, emergency health care, poison control center (if available), rescue squad, and the Tennessee Department of Children's Services;

7. All special diets must be prepared in accordance with a physician's written instructions;

8. Infant formula and other food delivered by a parent must be labeled with the child's name;

9. Infant food must be used immediately after it is opened, and formula remaining in the bottle after feeding must be discarded;

10. Infants unable to hold a bottle must be held while fed, and bottles must not be propped;.

11. Sleeping infants must be checked every half hour by touching them, and if the infant or other sleeping children appear to not breathe or are in distress, the Provider must immediately seek emergency medical help;

12. The parents of all enrolled children must be immediately notified if any of the following diseases have been introduced into the home: Hepatitis A, Foodborne outbreaks (food poisoning), Salmonella, Shigella, Measles, Mumps, Rubella, Pertussis, Polio, Hemophilus Influenza Type B, and Meningococcal Meningitis;

13. Prescribed medication must not be given to any child except under the written direction of a physician, and non-prescribed internal and external medication must not be given to any child except with the parent's written authorization;

14. Medications or drugs must be labeled with the child's name and must include specific written instructions for administering them;

15. Any noticeable side effects with the administration of any medications or drugs must be recorded and reported to parents;

16. No medications or drugs may be handled by children and must be stored out of the children's reach;

17. The Provider must notify the parent(s) as soon as possible when their child becomes ill or injured;

18. The Provider must report any suspected physical, sexual, or emotional abuse or neglect to the local county office of the Tennessee Department of Children's Services or the local Police Department;

19. The home and furnishings must present no hazard to the health and safety of children;

20. At least one working smoke detector must be located on each level of the home;

21. All unused electrical outlets accessible to children must be covered with receptacle covers;

22. All toxic substances, such as medicines, cleaning agents, polishes, bleach, detergents, paints, insecticides, etc., must be stored out of children's reach and away from food;

23. All weapons and dangerous utensils and tools must be stored out of children's reach;

24. Floors, walls, ceilings, furniture, equipment, and all surfaces and utensils must be kept clean and in good repair;

25. Both hot and cold running water must be available from an approved source;

26. A working telephone must be available in the home;

27. A working flashlight must be available for emergency lighting;

28. All children and caregiver hands must be washed frequently, including before any food handling, after toileting, and after helping children with toileting;

29. Sewage and waste must be disposed of properly;

30. Foods must be stored properly in clean containers and protected from contamination;

31. All perishable foods must be stored at temperatures not exceeding 40 degrees Fahrenheit;

32. Food must be prepared in a safe, sanitary manner;

33. Dishes and utensils must be either disposable or washed, rinsed, and sanitized properly;

34. Kerosene or other portable heaters must not be in use while children are present;

35. Fuel burning heaters must be vented to the outside of the home or must be designed to be unvented;

36. No fuel burning heaters may be used in napping areas or bedrooms;

37. All fuel burning heaters, fireplaces, wall heaters, fire and portable space heaters must have a protective screen that is attached securely to substantial supports;

38. All homes must be free from insects and rodents;

39. Soap and clean towels must be available for hand washing;

40. All children and caregivers must have access to a working indoor toilet;

41. Children's diapers must be changed on a clean, nonporous surface, away from the kitchen;

42. The smoking of tobacco products is not permitted within the space of the home utilized for child care when the child care services are being provided;

43. No use of a computer or fax machine during the hours of care is permitted, unless the computer or fax machine has a designated telephone line which is separated

from the home's telephone line for child care. Those computers without internet access are not subject to this policy.

Completion of Self-Certification Form

To provide for the Alternate Approval Procedures, CACFP Sponsoring Organizations will issue a Self-Certification Form, upon request, to any Provider who is not required by state law to be licensed. All Providers who wish to participate in the CACFP through the Alternate Approval Policy must complete and return the Self-Certification Form to the Sponsoring Organization of their choice.

Sponsor Compliance Visits

Following the receipt of a completed Self-Certification Form, the Sponsoring Organization will conduct a site visit to the Provider's home to confirm and document compliance with the Alternate Approval Policy. The initial visit is to be announced and is to be conducted during the normal operating hours of each home. The attached site visitation form is to be used for the initial and subsequent visits to a Provider's home to review compliance with the Alternate Approval Policy.

Subsequent visits to a Provider's home to investigate complaints are to be unannounced, but to occur only during the normal operating hours. These subsequent visits may coincide with required monitoring visits. The failure of any Provider to allow access to the home by representatives of the Sponsoring Organization or DHS shall constitute good cause for the denial or revocation of the eligibility for CACFP participation based on the Alternate Approval Policy.

TWO-TIER REIMBURSEMENT STRUCTURE

General

The level of reimbursement for meals served to enrolled children in sponsored child care homes is determined by economic need based on the location of the child care home; the income of the child care home provider; or the income of the individual children's households. Those child care homes and enrolled children who are determined to be Tier I eligible receive a higher level of meal reimbursements than those homes and children who are classified as Tier II. All sponsors must determine the Tier I or Tier II eligibility of the participating children and child care home providers.

Definition of Tier I, Tier II, and Tier II Mixed Homes

A Tier I home is a licensed or alternate approved home which is located in an area served by a school in which at least 50% of the children enrolled receive free or reduced-price meals under the National School Lunch Program (NSLP); or which is located in a U.S. Census block group in which at least 50% of the children residing in the area of the block group are members of households with incomes at or below 185% of the federal poverty income guidelines; or which is operated by a provider whose household is income or categorically eligible for Tier I status.

A Tier II home is a licensed or approved (self-certified) home which cannot meet the eligibility criteria for the Tier I classification.

A Tier II mixed home is a licensed or approved (self-certified) home in which all or a portion of the children in care are members of households which are income or categorically eligible for the receipt of Tier I meal reimbursements.

Procedures for Determining Tier I Eligibility

The Tier I eligibility of a sponsored home may be determined through the use of school or census data, or through the completion of an income eligibility application by the provider. In using school data, the Tier I eligibility of a home may be documented through two (2) steps. First, information must be secured for those schools in which at least 50% of the total children enrolled are certified to receive free or reduced-price meals under the NSLP. The names of the schools which meet the 50% threshold will be provided by the TDHS.

Secondly, sponsors must document that a particular home is located within the attendance zone of a school which meets the 50% threshold. This location may be confirmed by documenting a telephone conversation with a school official.

The documentation of the conversation must include, as a minimum, the name of the school official contacted; the date and time of the conversation; the specific information received; and the signature of the staff member who made the contact.

The use of census data will also follow a similar process to that of school data. However, the use of maps which identify census block groups may be required. This is depending, of course, upon any geomapping computer software that may be used. In any event, the use of census data in documenting Tier I status must at a minimum identify the location of a home within a census block group in which 50% or more of the children (i.e., ages birth to 12, or ages birth to 18) are living in households with incomes at or below 185% of the federal poverty income guidelines. Information concerning the census block groups that meet the 50% threshold will be provided by the TDHS. The use of school data is preferred over the use of census data. In fact, the USDA has clarified that census data is not to be used when school data is available.

As a third method for Tier I determinations, sponsors may use the standard eligibility application forms which are available from TDHS staff upon request. Please note that only the reduced-price income guidelines are to be used in determining the Tier I eligibility of child care home providers and the children in their care. Also, the guidelines which are in effect at the time of the determination are to be used. The reduced-price guidelines represent 185 % of the federal poverty income guidelines. Tier 2 home providers have the option of directly receiving the income eligibility applications from the parents they served. If these providers wish to collect and transmit the household information, the providers and their sponsors must ensure that each household knows the following:

1. The household is not required to complete the income eligibility form in order for their child(ren) to participate in CACFP; and

2. Households have the option, if they choose to complete the income eligibility form, of either:

    a. Returning the form directly to the sponsor at the address indicated on the form; or

    b. Returning the form to the provider with written consent allowing the provider to collect the form and transmit it to the sponsor on the household's behalf.

In addition to household income data, the Tier I categorical eligibility of a provider may be based on the provider's participation in the Supplemental Nutrition Assistance Program or Families First Program. For clarification purposes, the Families First Program represents the TANF or Temporary Assistance to Needy Families Program in Tennessee.

Child care assistance provided through the TDHS may be used to document the Tier I categorical eligibility of enrolled children in a Tier II home. This is providing that the care assistance is based on the income eligibility of the household of each child. The receipt of assistance through any of these programs will qualify a child in a Tier II home for Tier I meal reimbursements.

The income eligibility application form also provides for other categorical eligibility factors. If an enrolled child in a Tier II home (or a member of the enrolled child's household) is a participant in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); or is an income eligible participant in the Head Start Program; or receives free or reduced meals under

the National School Lunch or School Breakfast Programs, the child is categorically eligible for Tier I reimbursement.

Duration of Tier I Determinations

Tier I determinations for homes are valid for one (1) year from the date of the Determining Official's signature if based on the provider's household income; and for five (5) years if based on school data or census data. Also, the Tier I determinations of enrolled children in Tier II mixed homes are effective for a period of one (1) year from the date of the Determining Official's signature.

Retroactive Application of Tier I Eligibility

The classification of a child care home as a Tier I home, whether based on area data or the provider's household income, may be retroactive to the first of the month, or to the first day the home operates the CACFP, during the month in which the Tier I determination is made. In addition, the Tier I eligibility of the children enrolled in Tier II homes is effective on the first day that the children participate in the month in which the eligibility determination is made.

Sample Letters for Tier I Determination Process and Form to Document Reimbursement Options for Tier II Homes

Several sample letters which may be used by sponsors in required communications for Tier I determination are available from TDHS staff upon request. In addition, the form to be used to document a Tier II provider's selection of the reimbursement options is available from TDHS staff.

Confidentiality

Federal rules require that there can be no obvious identification of needy participants. This is very important so as not to cause any embarrassment to any participant. Therefore, the information on file at the sponsor's office on the income eligibility application and the eligibility status is **confidential**.

Public Release

Sponsoring organizations must annually prepare a public release to the local media announcing their intention to operate the CACFP in child care homes under their sponsorship. This release must include a statement that neither the sponsoring organization nor its providers discriminate against any participant because of race, color, national origin, sex, age, or disability.

A copy of this public release, along with any additional information the sponsoring organization wishes to include, must be sent to one or more local newspapers, or radio or television stations that serve the area. A copy of the release should be kept on file by the sponsor and a copy sent to

the TDHS. Whether or not the media actually uses the sponsor's public release, the responsibility has been fulfilled when the release is sent to them.

Any brochures, news articles, or bulletins provided to the public by the sponsor or provider should state that enrollment is open to all participants regardless of race, color, national origin, sex, age, or disability. A sample public release that may be used by sponsoring organizations is available from the TDHS.

Prohibition on Payments to Sponsor Personnel for Home Recruitment

In accordance with the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, sponsors are prohibited from providing payments to their staff based on the number of homes recruited. This policy represents a condition for participation in the program.

Counting/Reporting of Meals Served in Tier II Mixed Homes

Actual meal counts or claiming percentages may be utilized for the counting, reporting, and reimbursement of meals served in Tier II child care homes which serve children eligible for both Tier I and Tier II reimbursement rates. Sponsors are required to inform the providers of Tier II mixed homes of their options for reimbursement. Providers may elect to have their sponsors distribute eligibility applications to determine which of their children in care are and are not eligible for the Tier I reimbursement rates.

Each sponsor may only use one of the reimbursement methods (i.e., actual count or claiming percentages) for all of its homes. In addition, each sponsor may only change this method no more frequently than annually. A summary of these methods is provided below:

1. Actual Count

   Procedure:

   Each child care home will record meal counts by each enrolled child's name and meal type (i.e., breakfast, lunch/supper, and supplement). The meal count records will then be submitted, by each child's name, to the sponsor for each claiming period. The sponsor will report to the TDHS the number of meals served which are eligible for Tier I and Tier II rates. The determination of which meals are eligible for the higher Tier I rates will be based on the completion of eligibility applications by the parent(s)/guardian(s) of each enrolled child. The completion of these applications must concern direct communications between the sponsor and the enrolled children's parent(s)/guardian(s). The provider is not to be informed of the children's eligibility status or be involved, in any manner, in receiving the eligibility applications, or in communicating with the parent(s)/guardian(s) in this process. The provider may, however, be involved in distributing the applications to the parent(s)/guardian(s). Those children who are

eligible for Tier I reimbursement rates must be members of households that are either income or categorically eligible.

Example:

If a home with a total enrollment of 5 children is determined to have 3 enrolled children who are eligible for the Tier I reimbursement rates, the sponsor will report to the TDHS all meals served to the 3 children in question for Tier I reimbursement. The meals served to the remaining 2 children would be reported for Tier II reimbursement.

2. Claiming Percentages

Procedure:

Each provider will report to the sponsor for each claiming period the total meal counts only by type (i.e., breakfast, lunch/supper, and supplement). The sponsor will establish percentages of the number of meals that are to be reimbursed at the Tier I and Tier II rates. The percentages are to be based on the number of enrolled children who are and are not eligible for Tier I reimbursement. The claiming percentages established for each home must be adjusted at least semiannually by the sponsor.

Example:

If a home with a total enrollment of 5 children is determined to have 2 children who are eligible for the Tier I reimbursement rates, the sponsor would establish the home's claiming percentages at 40% for Tier I reimbursement and 60% for Tier II reimbursement. The sponsor would then report to the TDHS a total of 40% of all meals served in the home for Tier I reimbursement, and a total of 60% of all the meals served in the home for Tier II reimbursement.

Overclaims for Incorrect Tier I Determinations

All sponsors should make Tier I determinations carefully and conservatively, and ensure that all Tier I determinations are fully documented. With the wide disparity between the Tier I and Tier II reimbursement rates, there is a potential for large overclaims due to incorrect Tier I determinations. Consequently, sponsors face a substantial liability in this area.

MEAL PATTERNS AND SERVICES

All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement. These required meal patterns are as follows:

Infant Meal Pattern
Breakfast

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breastmilk[2,3]	**4-8 fluid ounces of formula[1] or breastmilk[2,3];** **0-3 tablespoons of infant cereal[1,4]**	**6-8 fluid ounces of formula[1] or breastmilk[2,3]; and** **2-4 tablespoons of infant cereal[1]; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Lunch or Supper

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-8 fluid ounces of formula[1] or breast milk[2,3];** **0-3 tablespoons of infant cereal[1,4] ; and** **0-3 tablespoons of fruit or vegetable or both[4]**	**6-8 fluid ounces of formula[1] or breast milk[2,3];** **2-4 tablespoons of infant cereal[1] ; and/or** **1-4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or** **½-2 ounces of cheese; or** **1-4 ounces (volume) of cottage cheese; or** **1-4 ounces (weight) of cheese food or cheese spread; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Supplement (Snack)

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-6 fluid ounces of formula[1] or breast milk[2,3]**	**2-4 fluid ounces of formula[1] or breast milk[2,3], or fruit juice[5]; and 0-½ bread[4, 6] or 0-2 crackers[4, 6]**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.
[5] Fruit juice must be full-strength.
[6] A serving of this component must be made from whole-grain or enriched meal or flour.

Breakfast for Children
(Select All Three Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	½ cup
1 grains/bread[3] bread or cornbread or biscuit or roll or muffin or cold dry cereal or hot cooked cereal or pasta or noodles or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

Lunch or Supper for Children
(Select All Four Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	¾ cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish[4] or	1 oz.	1½oz.	2 oz.
alternate protein product or	1 oz.	1½ oz.	2 oz.
cheese or	1 oz.	1½ oz.	2 oz.
egg or	1/2	3/4	1
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds[5] or	1/2 oz.	3/4 oz.	1 oz.
yogurt[6]	4 oz.	6 oz.	8 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

SUPPLEMENT (Snack) for Children
Select Two of the Four Components for a Reimbursable Snack

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread[3]			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish[4] or	1/2 oz.	1/2 oz.	1 oz.
alternate protein product or	1/2 oz.	1/2 oz.	1 oz.
cheese or	1/2 oz.	1/2 oz.	1 oz.
egg[5] or	½	1/2	1/2
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds or	1/2 oz.	1/2 oz.	1 oz.
yogurt[6]	2 oz.	2 oz.	4 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

USDA Food Buying Guide

The USDA Food Buying Guide is given as part of the initial application process and must be utilized for more specific information regarding food service and meal patterns.

Meal Service Restrictions

Child care homes are subject to the following meal service restrictions:

1. May be approved to serve and be reimbursed for up to two meals and a snack, or two snacks and one meal per participating child per day;

2. May not claim reimbursement for meals served to participants who are not enrolled;

3. May not claim reimbursement for meals served to participants that exceed the authorized licensed capacity of the home, at any one time;

4. May claim meals served to children during specific time intervals or "shifts", providing that the license capacity of the home is not exceeded based on TDHS regulations, and that the "shifts" are supported by accurate arrival and departure records maintained by the home on a daily basis;

5. Must serve meals that meet the meal pattern requirements established by the USDA;

6. Must have two (2) hours between the end of one meal service and the beginning of another meal service, except that there must be four (4) hours between the end of lunch and the beginning of supper when no afternoon snack is served between the lunch and supper meals;

7. Must not allow the service of the lunch and supper to last more than two (2) hours;

8. Must not allow the service of breakfast and snacks to last more than one (1) hour;

9. Must begin serving supper no earlier than 5:00 p.m. or and no later than 7 p.m.; and end the serving no later than 8 p.m;

10. May claim only those meals types that have been approved by the TDHS and sponsoring organization; and

11. Must serve all meals during the times identified in applications approved by the the sponsoring organization.

Methods for Provision of Meals

Meals may be provided through the following means:

1. On-Site Preparation: Meals may be prepared at the same site where they are to be served.

2. Purchasing From a Food Service Management Company or Commercial Vendor: Food service management companies or commercial vendors are profit oriented organizations (other than schools) which may be used to prepare and deliver meals to the feeding sites. Homes which receive meals from a food service management company must enter into a written contract with the company. All such contracts exceeding $100,000 must be awarded through an invitation to bid and must be approved by TDHS prior to their execution. Signing a contract with a food service management company does not relieve the home of its program responsibilities for monitoring and record-keeping. A copy of the contract between each home and food service management company must be submitted to TDHS for approval prior to the beginning of program operations under the contract.

Styles

The following meal service styles may be observed in the CACFP:

1. Pre-portioned: The minimal requirement or more of food for each required components is given on a plate or tray.

2. Family Style: Enough food must be placed on each table to provide minimum portions or more of each required component for all at the table, and to accommodate program adult(s) supervising meal service at the table if they eat.

   Some amount of each required component must be served to each child and at least the minimum regulatory portion must be offered to the participant.

   When the full regulatory portion is not initially served, supervising adults must assume the responsibility of actively encouraging acceptance of the full portion during the course of the meal. In any style meal service the home must prepare and serve the minimum required amounts. Each home is strongly encouraged to have available at each meal service reasonable amounts to offer second helpings if requested. Unitized meals, which offer all meal components to the child at one time, must be served. Homes may not claim "second" meals for reimbursement.

Allowable Food Substitutions

Substitutions are allowed for medical reasons or other special dietary needs if the substitutions are ordered in writing by a recognized medical authority. Copies of the order should be on file at

the sponsoring organization's office and at the home meal service site. The order should specify the food or foods the participant is not to eat and the food or foods that may be substituted. Recognized medical authorities include, but are not limited to, physicians and registered nurses. A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

Procurement Standards

Private non-profit sponsors are required to follow the federal regulations at 7 CFR 3019 in purchasing supplies, equipment, or related services from a commercial vendor. These regulations provide for a "small purchase threshold" of $100,000. This means that all purchases made with USDA funds at or below $100,000 are considered "small purchases" and may be acquired with an informal process of obtaining quotes.

Public sponsors must follow the federal regulations at 7 CFR 3016 in purchasing supplies, equipment, or related services from a commercial vendor. These regulations establish the "small purchase threshold" as the lower of $100,000 or the threshold set by state or local law.

Sponsoring organizations should consult with TDHS staff to ensure that all procurement activities are in compliance with state and federal policies. All procurements of $100,000 or more for supplies, equipment, or related services must be formally advertised and meet the following requirements:

1. The TDHS must be notified and public announcement of the bid solicitation must be made at least 14 calendar days before the opening of bids;

2. The bid announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the procurement item;

3. The TDHS must approve in advance the Invitation for Bid (IFB) and Contract form for the procurement, and the IFB must be made available so that all prospective bidders will have an equal chance of receiving the contract award;

4. The IFB may not provide for loans or other monetary benefits, terms or conditions to be made by food service management companies or commercial vendors;

5. Bids must be opened publicly;

6. Bids must be submitted to the TDHS for approval; and

7. The TDHS must be informed as to which bid will be chosen. If the lowest bid is not accepted, a justification for awarding the contract to a higher bidder must be provided.

In addition, a code of conduct must be maintained that prevents the exchange of anything of monetary value between the contractor and the sponsor or center that might influence the award or prohibit maximum open and free competition. Sponsor staff are to be alert to conflict of interest situations and avoid them. The code of conduct and other procurement provisions are found at 7 CFR Part 226.22.

REIMBURSEMENT

The CACFP provides meal reimbursement to child care homes through their sponsors and administrative reimbursement payments to sponsoring organizations. For home providers, program payments are limited to the number of meals served to enrolled children multiplied by the appropriate annually adjusted Tier I or Tier II reimbursement rates for each breakfast, lunch, supper, and/or snack. CACFP reimbursement is separated into administrative payments to cover the sponsoring organization's administrative expenses and food service payments for a disbursement to their sponsored home providers.

Administrative Payments

Based on the Healthy, Hunger-Free Kids Act of 2010 (Public Law 111-296), administrative payments are determined by multiplying the number of homes submitting a claim for reimbursement by the appropriate annually adjusted administrative reimbursement rate.

All sponsoring organizations are required to submit annual budgets that must be approved by the TDHS. Sponsoring organizations remain responsible for correctly accounting for costs and for maintaining records and sufficient supporting documentation to demonstrate that costs claimed have been incurred, are allocable to the program, and comply with applicable program regulations and policies. Reimbursements that are determined to be unallowable or that lack adequate documentation will be recovered by the TDHS.

Sponsors that have administrative funds remaining unspent at the end of the fiscal year on September 30 may carry over up to 10 percent of their administrative reimbursement to the next fiscal year. Those remaining funds over and above the 10 percent limit must be returned to the TDHS. However, sponsors are not required to carry over any unspent administrative funds. Any unexpended funds remaining at the end of a fiscal year, which could be carried over into the next fiscal year, may be returned to the TDHS at the sponsor's option. Revised budgets will be required for all carryover funds.

Food Service Payments

Sponsoring organizations receive monthly food service payments at the currently applicable Tier I or Tier II reimbursement rates for each eligible meal served to enrolled children in their sponsored homes. The reimbursement rates are adjusted annually every July 1.

The sponsoring organization is required to pass the full amount of the food service payment on to their providers within 5 working days of their receipt from the TDHS. Each provider's payment is based on the number of meals served during the month to enrolled children, unless their written provider/sponsor agreement authorizes the sponsor to provide food or vended meals to the home. In this case, the sponsoring organization may withhold that part of the provider's food service payment that covers the cost of the food or vended meals it furnished.

Meals of each type--breakfast, lunch, supper or supplement (snack) -- served in child care homes are reimbursed at either the Tier I or Tier II rate. Child care home providers may receive reimbursement for the meals served to their own children, providing that their sponsoring organization has determined their income eligibility based on an approved eligibility application, and that other non-residential enrollees are present during the meal service. Providers receive the full rate of reimbursement for each meal type regardless of the cost of those meals, and they are not required by the CACFP legislation and regulations to document or keep records of their homes' food service costs. However, providers will need to be aware of, and comply with, all applicable Internal Revenue Service child care record-keeping requirements.

Providers are required to sign a statement when submitting their meal records to a sponsor. Whether providers are required to submit meal records (i.e., attendance/meal count/menu forms) once or twice a month the following statement must be signed and dated for each submission:

> **I certify that the information (records) submitted to receive reimbursement for meals through the CACFP are complete and accurate. If the submitted information is not complete and accurate, I understand that it may be necessary for my CACFP sponsor to disallow part or all of my claim. I understand that this information is being given in connection with receipt of Federal funds; that the CACFP Sponsor official(s) or Tennessee Department of Human Services (TDHS) official(s) may, for cause, verify information; and that deliberate misrepresentation may subject me to CACFP termination and possible prosecution under applicable State and Federal criminal statutes.**

Meals Ineligible for Reimbursement include:

1. Meals served to any participant who is not enrolled for care in the home;

2. Meals served in excess of the authorized capacity of a home;

3. More than two meals and a snack or two snacks and a meal daily to each participant;

4. Meals that do not meet the meal pattern requirements;

5. Meals served to provider's own children who are not determined income eligible, or when no other non-residential children are present; and

6. Meals reported for Tier I reimbursement which were not served to Tier I eligible children.

Claims for Reimbursement

All sponsoring organizations must submit to the TDHS accurate monthly reports on the number of meals served. Claims for partial months cannot be accepted.

Sponsoring organizations are also required by the TDHS to report on actual costs incurred for program operations. This report is part of the claim for reimbursement form. Reimbursement claim forms must be received by the TDHS within the time frame identified in the CACFP Grant Agreement.
All revised claims are to be limited to one per month. If the revised claim is to result in an upward adjustment, the claim must be received within 90 days following the month in which the meals were served.

Late/Revised Claims for Reimbursement

Claims for reimbursement must be submitted on a monthly basis to the TDHS. Claims for partial months are not accepted. All completed and signed claim forms must be received by the TDHS within 30 days following the close of the claiming period. Any claim received more than 30 days following the close of a claiming period is considered a "late claim". A "late claim" received less than 60 days following the close of a claiming period may be paid providing an acceptable explanation for the late submission is provided, and the "late claim" does not exceed the one revised claim per sponsor per month policy.

If a "late claim" is received more than 60 days following the close of the claiming period, the claim may be paid only if the following conditions are met:

1. An acceptable explanation for the late submission is received;

2. The "late claim" does not exceed the one revised claim per institution per month policy, and

3. The provisions of Policy Memorandum 226.10-2 issued by the USDA are met. As provided by this federal memorandum, a claim received more than 60 days following the close of the claiming period may be paid if the affected institution has not received payment during the past 36 months for another claim received more than 60 days following the close of the claiming period. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the close of the claiming period. All revised claims are to be limited to one per month. If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the month in which the meals were served.

Claim Edit Checks

All sponsoring organizations are required to establish and maintain the following claim edit checks:

1. Each sponsored facility is paid only for those meal types for which it has been approved to serve; and

2. The number of meals claimed by each sponsored facility does not exceed the number derived by multiplying approved meal types times days of operation times enrollment.

Participation Controls

The TDHS may not reimburse a sponsoring organization for meals served to participants in excess of the authorized licensed or approved capacity of each home. Claims will not be processed for payment if they show that a greater number of meals were served than the authorized limit on the license for the child care home. However, if the home serves participants in shifts (for example, if a meal type is served at two different times to two different groups of participants), and does not violate the authorized capacity, the home will receive reimbursement for the meals. Homes serving meals in shifts must be sure to clearly indicate this on the application form.

Start-up Payments

Administrative start-up payments are available to newly approved sponsoring organizations, and participating sponsoring organizations of fewer than 50 child care homes. Start-up payments are for sponsors that want to develop or expand program operations in child care homes.

The TDHS will approve start-up payments only **once** for any eligible sponsor. Prospective sponsors that want to apply for start-up payments must document to the TDHS that they:

1. Are public or private non-profit entities with income tax exemption from the IRS;

2. Have an organizational history and organizational capacity of managing funds and ongoing activities in public or private programs;

3. Have an acceptable and realistic plan for recruiting child care home providers to participate in the CACFP with estimates of the number of child care homes to be recruited and information documenting their existence; and

4. Have developed an acceptable sponsor management plan on the application for start-up funds. This plan is a preliminary outline of staff commitment and proposed activities for recruiting their child care home providers.

The TDHS will notify each prospective sponsor of its approval or denial of requested start-up payments within 30 calendar days after it receives the sponsor's completed application. If an incomplete application is received, the TDHS, within 15 calendar days after receipt, will notify the prospective sponsoring organization that additional data is required. The TDHS will assist the sponsoring organization to complete the application, if assistance is needed. If the TDHS

denies the sponsor's application for start-up payments, it must tell the sponsoring organization why and advise it of the right to appeal the decision under the TDHS's fair hearing procedure.

If the TDHS approves the application for start-up payments, the sponsoring organization will then sign an agreement. The agreement details how the sponsoring organization will use the start-up funds and how long the sponsoring organization has to use the funds to initiate or expand program operations in child care homes. It also makes clear that the sponsoring organization must repay the funds if they are not used in accordance with the terms of the agreement.

Total start-up payments that may be approved are equal to between one (1) and two (2) months' of the sponsoring organization's anticipated administrative reimbursement as determined by the TDHS. However, no sponsoring organization may receive start-up payments for more than 50 homes. Sponsoring organizations with fewer than 50 homes at the time of application for start-up funds will be approved to receive payments only for the number of additional homes needed to total 50 homes.

Approved sponsoring organizations must make every effort to start program operations within the time frames set in the agreement. If this cannot be done, the TDHS may demand full or partial repayment of the start-up funding. In all cases, sponsoring organizations must repay the TDHS for all start-up funds they receive that exceeds their actual costs in accomplishing the activities listed in the agreement for start-up payments.

Expansion Funds

Expansion funds are available for sponsoring organizations that are currently participating in the CACFP. The funds may be utilized to recruit new child care homes which are located in either low-income or rural areas. A rural area is defined as any area in a county which is not a part of a Metropolitan Statistical Area (MSA), or any pocket with a MSA, which at the option of the TDHS and with the concurrence of the USDA, is determined to be geographically isolated from urban areas. A low-income area is any area in which poor economic conditions exist. This may be documented in the following two ways:

1. School Data: 50% or more of the children enrolled in the school or schools serving the children who live in the area where CACFP expansion is to take place are eligible for free or reduced-price meals under the National School Lunch or School Breakfast Programs; or

2. Census Tract Data: Census data is available to document that the median income for the tract which includes the expansion area is lower than the reduced-price guidelines.

Expansion funds are limited to sponsoring organizations that have previously utilized start-up funds or that are no longer eligible for start-up funds since they sponsor more than 50 homes. A sponsoring organization that has received start-up funds cannot apply for expansion funds until

full year has elapsed since it satisfied all obligations under the agreement with the TDHS for the provision of the start-up funds.

The maximum number of homes for which expansion funds may be received and used is 50 homes. This limit does not include the homes already sponsored by the applicant sponsoring organization.

To received expansion funds, all applicant institutions must submit the following information:

1. Plan for recruiting the child care homes to be targeted under the expansion program;

2. The amount of expansion funds needed and a budget which details the costs to be incurred;

3. The time required to complete the expansion request; and

4. Documentation that the expansion area meets the rural or low-income requirement identified above.

After all requirements have been met, an agreement between the TDHS and the sponsoring organization must be executed before any expansion funds are released.

RECORD-KEEPING

General

Keeping accurate records is vital to making sure that sponsoring organizations and child care home providers receive all the reimbursement payments to which they are entitled, and that program reimbursement accurately reflects program operations. This manual provides information about the types of records that must be kept to justify the sponsoring organization's reimbursement claim and suggestions on managing this portion of the program. The TDHS can provide help in answering any questions about the required records or about systems for collecting and maintaining the records. A sample checklist form for required records is available from the TDHS upon request.

Record-Keeping System

An efficient record-keeping system that supports all of its administrative costs and reimbursement payments received under the program must be established and maintained by sponsoring organizations. Since many records such as provider's meal counts must be kept on a daily basis, a good management practice is to establish a regular pattern and, if possible, have the same people assigned to keep specific records. An orderly system for filing records is essential and will save time each month when your claim for reimbursement form is completed. In addition, all records should be readily available upon request for review or audit by the TDHS and representatives of the USDA.

Retention of Records

Records must be maintained for a minimum of 3 years after the end of the Fiscal Year to which they pertain. It is important that sponsoring organizations and their child care providers establish an organized and integrated filing system so that all records required under this policy are easily accessible.

Training Records

Records of sponsoring organization's annual training sessions for participating home providers must be maintained. These records must contain dates, locations, topics and procedures discussed, and a listing of participants in attendance.

Review Records

The sponsoring organization must keep documents on file on the location and date of each child care home reviewed, any problems noted, and the corrective action required and completed. The sponsoring organization should also maintain records documenting assistance and guidance it has provided to home providers to complete corrective action(s).

Daily Meal Service Records

Child care home providers must keep daily records on attendance, menus and meal counts to support their sponsoring organization's meal service claim. A description of what these records must contain is discussed below. The sponsoring organization must collect these daily records from each child care home it sponsors at least once each month to complete its monthly consolidated claim for reimbursement. However, sponsoring organizations may want to collect records from the sponsored homes more frequently than monthly to verify that the records are current, correct, and to help the child care home provider understand and correct any identified mistakes prior to submission of the claim.

Meal Count Records

Daily meal count records must contain the number of meals served to enrolled participants by meal type (i.e., breakfast, lunch, supper or supplement). A sample meal count form is available from TDHS staff upon request.

Daily Menu Records

Daily menu records must be maintained for all children and infants who participate in the program. The menus must meet the following requirements:

1. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

2. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

3. **All food items that are identified on the menus are supported by purchase receipts;**

4. The specific date of use is identified, including the day, month and year; and

5. Each menu is posted in a conspicuous place for all parents and guardians to observe.

It is also recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.

The sponsoring organization must monitor the menus served in their sponsored homes and give menu planning assistance to providers who are found to be not meeting the nutritional goals of the program. A sample menu planning worksheet is available from TDHS staff upon request.

Enrollment/Attendance Records

Records supporting the enrollment and daily attendance of the children receiving care must be kept. A sample enrollment roster is available from TDHS staff upon request.

Income Eligibility Applications

At least once a year sponsoring organizations of child care homes must collect eligibility applications from their child care home providers who wish to apply for program benefits for their own children.

Sponsoring organizations must keep on file approved applications for the providers' own children after determining their income eligibility.

Records to Support Program Costs

Sponsoring organizations must keep records of their administrative costs. Discussed below are the types of costs included in each category and the records that must be kept to ensure that program funds are used properly.

Neither the providers nor sponsoring organizations are required by law and regulations to keep documentation of operational costs associated with the cost of labor or food for meals provided in child care homes. Providers should, however, be aware of and comply with all Internal Revenue Service record-keeping requirements for their day care businesses.

Administrative Costs

Administrative costs are costs incurred by sponsoring organizations to administer the program. Administrative costs include those associated with planning, organizing, and managing the CACFP food service operation. Sponsors may claim reimbursement of administrative costs providing these costs have been included in the sponsor's CACFP budget and have been approved by the TDHS.

Administrative cost categories that may be claimed for reimbursement include the cost of labor, supplies, and mileage. A sample form with instructions to record administrative expenses is available from TDHS staff upon request.

Administrative Labor Costs

Administrative labor costs include compensation paid by the sponsoring organization for labor needed for administering the CACFP. This may include wages, salaries, employee benefits, and the share of taxes paid by the sponsor.

Administrative labor is labor necessary to perform the following tasks:

1. Planning, organizing, and managing the food service operation under the CACFP;

2. Completing CACFP application materials;

3. Compiling records to complete the monthly reimbursement claim;

4. Preparing the monthly reimbursement claim; and

5. Monitoring program operations in the homes.

Sponsoring organizations must document the cost of administrative labor to support their CACFP reimbursement. Records that must be maintained include payroll records and time and attendance reports. The value of volunteer labor may not be claimed under this or any other category of total program costs.

If some administrative staff only work part time on CACFP administrative duties, the cost of the labor must be prorated so that only CACFP administrative labor is claimed for reimbursement.

Administrative Supplies

Costs incurred for supplies used to administer the CACFP may be claimed for reimbursement. These costs may include:

1. Cost of printing or reproducing materials that are used for the CACFP; and

2. Telephone calls and postage necessary for the program.

Itemized receipts, invoices, and other records to document these costs must be kept. Some administering agencies may require either a monthly or yearly inventory of administrative supplies. The TDHS can provide additional information about these costs.

Mileage

If vehicles owned by a sponsoring organization or one of the organization's employees are used for CACFP administrative duties (such as visits to homes for monitoring or training), the mileage allowance can be claimed for reimbursement. Records must be kept to document the mileage claimed.

A sample mileage record is available from TDHS staff upon request.

The TDHS will provide sponsoring organizations with information about the amount of reimbursement that can be claimed for mileage accrued while completing CACFP administrative duties.

Additional Records

The TDHS may require records in addition to those identified in this section. The TDHS can provide assistance in meeting all record-keeping responsibilities. All required records must be available for review by the TDHS.

AFTER-SCHOOL CARE MEAL PROGRAM FOR AT-RISK CHILDREN

ELIGIBILITY AND PARTICIPATION REQUIREMENTS

Eligibility Requirements

The Afterschool Care Meal Program for At-Risk Children is authorized by the Healthy, Hunger-Free Kids Act of 2010 (Public Law 111-296). The purpose of the program is to enhance nutritional benefits for children served by eligible after school care programs. Children through age 18 and children who reach their nineteenth birthday during a school year are eligible to participate. Also, individuals who are determined to be mentally or physically disabled are eligible to participate regardless of their age. Children who are in care at child care homes are not allowed to participate. To be eligible for the CACFP reimbursement component, each after-school care program must meet the following criteria:

1. Is located in an area served by a school in which at least 50% of the enrolled children are certified eligible for free or reduced-price meals under the National School Lunch or Breakfast Programs;

2. Is administered by a public, private non-profit or eligible proprietary institution;

3. Provides care in an after-school setting that has regularly scheduled activities that are structured and supervised;

4. Meets all applicable health and safety requirements; and

5. Provides an education or enrichment activities. Organized athletic programs that involve competition in a league are not eligible.

Any at-risk after school care program centers that are located in areas where State or local health and safety standards do not exist are ineligible to participate.

Reimbursement

After school care programs may claim reimbursement for one snack and one meal, per child, per day. **A waiver of this requirement may be made on a case-by-case basis to allow the reimbursement of two snacks instead of one meal and one snack.** All snacks and meals served under this component must meet the CACFP meal patterns, and are reimbursed at the free rate. Participating institutions are not required to make eligibility determinations for individual children, or count and claim snacks and meals according to type (free, reduced-price and paid).

Late/Revised Claims for Reimbursement

Claims for reimbursement must be submitted on a monthly basis to the TDHS. Claims for partial months are not accepted. All completed and signed claim forms must be received by the TDHS within 60 days following the close of the claiming period. Any claim received more than 60 days

following the close of a claiming period is considered a “late claim”. A “late claim” may be paid only if the following conditions are met:

1. An acceptable explanation for the late submission is received;

2. The “late claim” does not exceed the one revised claim per institution per month policy, and

3. The provisions of Policy Memorandum 226.10-2 issued by the USDA are met. As provided by this federal memorandum, a claim received more than 60 days following the close of the claiming period may be paid if the affected institution has not received payment during the past 36 months for another claim received more than 60 days following the close of the claiming period. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the close of the claiming period. All revised claims are to be limited to one per month. Revised claims providing for an upward adjustment in reimbursement are considered as “late claims” if received more than 90 days after the close of the claiming period. “Revised late claims” may be paid if the affected institution has not received payment during the past 36 months for another late claim. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

Times of Operation

Reimbursement for snacks and meals is only available for programs that serve children after their school day has ended. Under no circumstances may snacks and meals be reimbursed under this provision for children participating in programs operated before or during the child's school day. However, snacks and meals may be reimbursed if they are served at any time of the day on weekends or holidays, including vacation periods, during the regular school year.

Monitoring of Feeding Sites

If two of more feeding sites are sponsored, the following monitoring requirements must be met:

1. Each feeding site must be visited at least three times each program year to complete the monitoring reviews;

2. The monitoring visits to each feeding must occur not more than six months apart;

3. One of the required monitoring visits for each feeding must occur during the first six weeks of CACFP operations;

4. At least two of the monitoring visits to each feeding site must be unannounced; and

5. The standard monitoring guide issued by the DHS must be utilized to complete all feeding site reviews, and must be maintained for inspection by state and federal personnel.

Record-Keeping

At a minimum, institutions must maintain the following records:

1. Documentation that the site is located in an area served by a school in which at least 50 percent of the enrolled students are certified eligible for free or reduced-price meals;

2. Daily meal counts;

3. Documentation of individual children's attendance on a daily basis;

4. Documentation of compliance with meal pattern requirements;

5. Completed monitoring guides for feeding site reviews; and

4. Menus that meet the following requirements:

   a. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

   b. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

   c. All food items that are identified on the menus are supported by purchase receipts;

   d. The specific date of use is identified, including the day, month and year; and

   e. Each menu is posted in a conspicuous place for all parents and guardians to observe.

5. It is also recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.

MEAL PATTERNS AND SERVICES

Meal Patterns

All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement. These required meal patterns are as follows:

SUPPLEMENT (Snack) for Children
Select Two of the Four Components for a Reimbursable Snack

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread[3]			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish[4] or	1/2 oz.	1/2 oz.	1 oz.
alternate protein product or	1/2 oz.	1/2 oz.	1 oz.
cheese or	1/2 oz.	1/2 oz.	1 oz.
egg[5] or	½	½	1/2
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds or	1/2 oz.	1/2 oz.	1 oz.
yogurt[6]	2 oz.	2 oz.	4 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

Breakfast for Children
(Select All Three Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	½ cup
1 grains/bread[3] bread or cornbread or biscuit or roll or muffin or cold dry cereal or hot cooked cereal or pasta or noodles or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

Lunch or Supper for Children
(Select All Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	¾ cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish[4] or	1 oz.	1½oz.	2 oz.
alternate protein product or	1 oz.	1½ oz.	2 oz.
cheese or	1 oz.	1½ oz.	2 oz.
egg or	1/2	3/4	1
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds[5] or	1/2 oz.	3/4 oz.	1 oz.
yogurt[6]	4 oz.	6 oz.	8 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

Methods for Provision of Meals

Meals may be provided through the following means:

1. On-Site Preparation: Meals may be prepared at the same site where they are to be served.

2. Central Kitchen: Meals may be prepared in one central kitchen and transported to the participating feeding sites.

3. Purchasing From a School: Meals either in bulk or as individual units may be purchased from a school food service. Institutions which receive meals from a school must enter into a written contract with that school. All pertinent CACFP requirements must be embodied in the written contract between the institution and school.

   Signing a contract does not relieve the institution of its program responsibilities for monitoring and record keeping. The school must provide dated copies of the menus for all meals served.

4. Purchasing From a Food Service Management Company or Commercial Vendor: Food service management companies or commercial vendors are profit oriented organizations (other than schools) which may be used to prepare and deliver meals to the feeding sites. Institutions which receive meals from a food service management company must enter into a written contract with the company.

   All such contracts exceeding $100,000 must be awarded through an invitation to bid and must be approved by TDHS prior to their execution. Signing a contract with a food service management company does not relieve the institution of its program responsibilities for monitoring and record-keeping. A copy of the contract between each institution and food service management company must be submitted to TDHS for approval prior to the beginning of program operations under the contract.

Allowable Food Substitutions

Substitutions are allowed for medical reasons or other special dietary needs if the substitutions are ordered in writing by a recognized medical authority. Copies of the medical order should be on file at the institution's office and at the meal service site (if different).

The medical order should specify the food or foods the participant is not to eat and the food or foods that may be substituted. Recognized medical authorities include, but are not limited to, physicians and registered nurses.

A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

Procurement Standards

While institutions have the responsibility to prepare and serve reimbursable meals in their own facilities, they may agree to obtain program food items or meals through other public or private sources.

Those institutions that purchase meals, food items, supplies, equipment, or related services from food service management companies, or commercial vendors must adhere to the procurement provisions governing the program as found in 7 CFR Part 226.22

In addition, private non-profit institutions are required to follow the federal regulations at 7 CFR 3019 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations provide for a "small purchase threshold" of $100,000. This means that all purchases made with USDA funds at or below $100,000 are considered "small purchases" and may be acquired with an informal process of obtaining quotes.

Public institutions must follow the federal regulations at 7 CFR 3016 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations establish the "small purchase threshold" as the lower of $100,000 or the threshold set by state or local law.

All procurements of $100,000 or more for meals, equipment, or other services must be formally advertised and meet the following requirements:

1. The TDHS must be notified and public announcement of the bid solicitation must be made at least 14 calendar days before the opening of bids;

2. The bid announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the procurement item;

3. The TDHS must approve in advance the Invitation for Bid (IFB) and Contract form for the procurement, and the IFB must be made available so that all prospective bidders will have an equal chance of receiving the contract award;

4. The IFB may not provide for loans or other monetary benefits, terms or conditions to be made by food service management companies or commercial vendors;

5. Bids must be opened publicly;

6. Bids must be submitted to the TDHS for approval; and

7. The TDHS must be informed as to which bid will be chosen. If the lowest bid is not accepted, a justification for awarding the contract to a higher bidder must be provided.

In addition, a code of conduct must be maintained that prevents the exchange of anything of monetary value between the contractor and the center or sponsor that might influence the award or prohibit maximum open and free competition. Institution staff are to be alert to conflict of interest situations and avoid them.

A. ELIGIBLE PROGRAMS

1. What are the basic eligibility criteria for at-risk afterschool programs?

To participate in the at-risk afterschool meals component of CACFP, a public or private nonprofit organization (including a school) must operate an afterschool program organized primarily to provide care for children after school hours or on weekends, holidays, or school vacations during the regular school year and that:

- provides children with regularly scheduled activities in an organized, structured, and supervised environment;
- includes education or enrichment activities; and
- is located in a geographical area served by a school in which 50 percent or more of the children enrolled are eligible for free or reduced price school meals [7 CFR §226.17a(b)].

Additionally, although Federal law does not require afterschool programs to be licensed, they must meet State or local health and safety standards in order to participate.

[See Question A-14 for information on for-profit eligibility.]

2. Are there any afterschool programs that may not be approved?

Yes. Organized athletic programs engaged in interscholastic or community level competitive sports only (for example, youth sports leagues such as “Babe Ruth” and “Pop Warner” sports leagues, community soccer and football leagues, area swim teams, etc.) may not be approved. However, afterschool programs that include supervised athletic activity may participate provided that they are “open to all” and do not limit membership for reasons other than space or security or, where applicable, licensing requirements. For example, an afterschool police athletic league program that uses sports and recreational activities to provide constructive opportunities for community youth could be approved to participate [7 CFR §226.17a(b)].

3. Does the "open to all" criterion apply to programs other than interscholastic sports programs?

No. Afterschool programs designed to accommodate special needs or that have other limiting factors, may be eligible to participate. They may include, but are not limited to programs targeted to children who have learning disabilities or programs for children who are academically gifted.

4. Do at-risk afterschool programs have to be drop-in or can enrolled programs also participate?

At-risk afterschool programs may be either drop-in or enrolled.

5. Can an at-risk afterschool program charge "tuition," similar to a regular child care facility?

Similar to non-pricing child care centers, there may be a fee for the care provided or a "tuition" charge, but there can be no separate charge for the food service. Although the regulations do not specifically prohibit or specifically authorize tuition charges, should the TDHS encounter a situation where a substantial participation fee is being charged that might adversely affect the ability of needy children to participate, the TDHS will consult with the USDA Regional Office prior to approving participation.

6. Does an at-risk afterschool program have to be open to the full age range up to 18?

No. There is no requirement that each facility must serve the full age range of eligible children. For example, a program could operate at a high school and serve only high school age students.

7. Is licensing required for an at-risk afterschool program?

Otherwise eligible afterschool programs do not need to be licensed in order to participate unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then afterschool programs must meet State or local health and safety standards. Organizations should check with their State and local health departments to determine the requirements they must meet to operate an afterschool program in their community. Existing afterschool programs that have not had a meal service as part of their program in the past should also check with State and local health department officials to determine whether any additional requirements apply as a result of the service of an afterschool meal or snack [7 CFR §226.6(d)].

8. If the State or locality does not require licensing for afterschool centers and has no existing health and safety standards for afterschool centers, can organizations still participate in the program?

No. Meeting State and local health and safety standards is a requirement for participation. In the absence of State or local health and safety standards, State institutions are encouraged to work with the appropriate State and local officials to create such standards.

9. Can a traditional child care center already participating in CACFP qualify for at-risk afterschool meal and snack reimbursements?

Yes. A child care center located in the attendance area of a school in which at least 50 percent of the enrolled children are eligible for free or reduced price meals may qualify for CACFP at-risk afterschool reimbursements for free meals and snacks served to children who attend the center after their school day has ended. Children who do not attend school would continue to participate in the traditional CACFP meal service provided by the center.

10. Are programs that operate on weekends eligible for reimbursement?

Meals and snacks may be reimbursed if they are served on weekends or holidays, including vacation periods (e.g., spring break), during the regular school year only [7 CFR §226.17a(b)].

11. Are programs that operate during summer vacation eligible for reimbursement?

At-risk afterschool meals and snacks may not be reimbursed during summer vacation. Organizations that wish to operate programs during the summer when school is not in session may be eligible to receive reimbursement for meals and snacks through the Summer Food Service Program. In areas where schools operate on a year-round basis (i.e., the regularly scheduled school year is year-round), afterschool programs may receive reimbursement for at-risk meals and snacks through the CACFP all year if these programs are set up to serve children attending the year-round schools [7 CFR §226.17a(b)i].

12. Are there any restrictions on afterschool programs switching from CACFP at-risk during the school year to SFSP during the summer when school is not in session?

Yes, there are restrictions. Question 10 applies to an organization that serves meals and/or snacks to children only through the at-risk afterschool meals component of CACFP during the school year. Such an organization could serve meals to all children through age 18 under SFSP during the summer months, subject to approval of their SFSP application by the TDHS.

However, a traditional child care center that also serves at-risk afterschool meals and/or snacks (i.e., the center has enrolled pre-school children in care during the day, but also serves at-risk afterschool meals and/or snacks to school-age children) must comply with FNS Instruction 782-4, rev. 3. This instruction states that traditional child care centers may only claim some or all of their meals under SFSP during the summer when there is a substantial change in program activities or a significant increase in enrollment. Institutions approved to participate in both the CACFP and the SFSP must ensure that the same

children are not served meals in both programs, and separate records must be kept for each program.

Generally, institutions may not establish separate entities using separate tax identification numbers to serve the same children under different child nutrition programs in order to avoid the program restrictions or to earn higher reimbursement. However, if there is a legitimate need for a separate organization and it meets the requirements in the preceding paragraph, then it may be approved to participate in SFSP if it meets SFSP eligibility criteria.

If a traditional child care center did not substantially change its activities or significantly increase its enrollment during the summer months, it could only receive reimbursement through SFSP for meals served to children who participate in the afterschool program during the school year. Such a center would receive free, reduced price, and paid reimbursement through CACFP for all other children enrolled for care (through the age of 12). Per FNS Instruction 782-4, rev. 3, the determination to either approve the institution for participation in both the CACFP and SFSP or solely for the CACFP should be based on the institution's program objectives.

13. What are the differences between Outside-School-Hours Care Centers (OSHCC's) and at-risk afterschool care centers in CACFP?

Requirement	OSHCC's	At-risk Afterschool Centers
Eligible Institutions	Public, private nonprofit, or qualifying for-profit centers [7 CFR §226.19(a)].	Public, private nonprofit, or qualifying for-profit centers [7 CFR §226.17a(a)].
Licensing	Licensing not required unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then centers must meet State or local health and safety standards [7 CFR §226.6(d)].	Licensing not required unless there is a State or local requirement for licensing. If there is no State or local requirement for licensing, then centers must meet State or local health and safety standards [7 CFR §226.6(d)].
Determination of Reimbursement	Program may operate in any area. Individual free and reduced-price applications are collected to determine level of reimbursement (free, reduced price, and paid) [7 CFR §226.19(b)(7)(i)].	Program must be located in a geographic area served by a school in which 50 percent or more of the children enrolled are eligible for free or reduced price meals. All meals and snacks are reimbursed at the free rate [7 CFR §226.17a(i)].
Age of Participants	12 years of age and under, children age 15 and under who are children of migrant workers, and persons of any age who meet	School-age children through age 18 (or 19 if the individual turns 19 during the school year) and persons of any age who meet the definition of

Requirement	OSHCC's	At-risk Afterschool Centers
	the definition of ''Persons with disabilities'' [7 CFR §226.19(b)(3)].	''Persons with disabilities'' [7 CFR §226.17a(c)].
Type of Meals Eligible for Reimbursement	Breakfast, snack, and supper. Lunch may be served during school vacations during the regular school year [7 CFR §226.19(b)(4)].	Snack and supper. Breakfast or lunch may be served in lieu of supper on weekends, holidays, or during school vacations during the regular school year [7 CFR §226.17a(k)].
Number of Reimbursable Meals	Maximum of two meals and one snack or two snacks and one meal per child per day [7 CFR §226.19(b)(5)].	Maximum of one snack and one meal per child per day [7 CFR §226.17a(k)].
Meal Patterns	CACFP meal patterns [7 CFR §226.20(c)].	CACFP meal patterns [7 CFR §226.20(c)].
Meal Service Periods	School days, weekends, and holidays; no weekend-only programs [7 CFR §226.19(b)(4)].	School days, weekends, and holidays during the regular school year [7 CFR §226.17a(b)].
Time Restrictions for Meal Service	None.	Meals must be served after school, except on weekends and holidays, when meals may be served at any time of day, as approved by the TDHS [7 CFR §226.17a(m)].

14. Are for-profit centers eligible to receive reimbursement for at-risk afterschool meals?

Yes. For-profit centers may receive reimbursement for at-risk afterschool meals if they:

- meet all at-risk afterschool eligibility requirements (see Question A1); and
- are eligible to receive reimbursement as a for-profit center through the traditional child care component of CACFP [7 CFR §226.17a(a)(2)(ii)].

Therefore, if a for-profit child care center meets the criteria for a *For-profit Center* set forth in the regulations (7 CFR §226.2), it may also receive reimbursement for afterschool meals through CACFP if it operates an afterschool care program. To be eligible for CACFP reimbursement, 25 percent of the children in the traditional child care component (enrolled or licensed capacity, whichever is less) must be eligible for free or reduced priced meals or eligible for compensation under title XX of the Social Security Act. Children who only participate in the at-risk component may not be considered in calculating the 25 percent of children in care. In addition, in order to claim reimbursement in any calendar month, the center must meet the 25 percent criterion in that month.

In determining a for-profit center's eligibility for afterschool meal and/or snack reimbursement, only the enrollment/licensed capacity of the traditional child care component of the center should be considered in calculating whether the center meets the 25 percent criterion. For example, a for-profit child care center has 32 pre-school children enrolled for care and also operates an afterschool care program for school-age children. The center would be able to claim reimbursement through CACFP for meals served under the traditional child care component and for afterschool snacks and meals served to school age children participating in the afterschool program in any month in which at least 8 of the 32 pre-school children are title XX recipients or are eligible for free or reduced price meals [7 CFR §226.17a(a)].

15. Can a school system participating in both the School Breakfast Program (SBP)/ National School Lunch Program (NSLP) and the at-risk component of the CACFP receive reimbursement under CACFP for a meal and snack served to children who also received breakfast and lunch under the SBP/NLSP?

Yes. Based on the nature of the at-risk afterschool meals component of CACFP, the expectation is that most of the participating children attend school and receive free or reduced price meals. With that in mind, schools that serve children meals through NSLP are eligible for reimbursement for a meal and a snack served to children in an at-risk afterschool program through CACFP. However, schools may not serve children an afterschool snack through NSLP and then serve those same children an additional snack through CACFP.

16. Can extended day schools participate in the at-risk afterschool component?

A school operating longer than the traditional school day may be eligible for afterschool snack reimbursement through the NSLP or CACFP, provided that it operates a school day that is at least one hour longer than the minimum number of school day hours required for the comparable grade levels by the local educational agency in which the school is located.

17. Are there policies in place to streamline participation for School Food Authorities?

Yes, the following policies are in place in an effort to streamline participation of School Food Authorities (SFAs) in the at-risk component of CACFP:

- SFAs that are already successfully operating NSLP do not need to submit a separate CACFP management plan.
- State institutions that administer the NSLP and CACFP are required to enter into a single agreement with SFAs with respect to the operation of any combination of the Child Nutrition Programs. Therefore, an addendum to the existing agreement is sufficient for SFAs interested in participating in the at-risk afterschool meals component of CACFP.

- State institutions may consider requests to align the monitoring requirements of the CACFP at-risk afterschool meal sites with those of NSLP.
- SFAs may choose to use the NSLP and SBP meal pattern or the CACFP meal pattern.
- Schools that participate as at-risk afterschool care centers in CACFP do not have to meet any additional health and safety requirements. Participation in the NSLP or SBP requires a health and safety inspection. Therefore, participation in NSLP or SBP is proof of meeting health and safety requirements for CACFP [CACFP 08-2008 *Streamlining At-risk Afterschool Meal Participation for School Food Authorities Currently Participation in the National School Lunch Program,* June 6, 2008].

18. Can RCCIs (like juvenile justice facilities or boarding schools in which all children are eligible for free meals be eligible for three meals and two snacks per day if they enroll in both the NSLP (breakfast, lunch and snack) and the CACFP (supper and snack)?

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 serve at-risk afterschool meals if it has non-residential care programs and these programs offer afterschool education and enrichment programs for nonresidential children [7 CFR §226.2 definitions; At-risk afterschool care center].

19. Must an afterschool program receiving reimbursement for afterschool meals "manage" the day-to-day activities of the afterschool care program?

No. An institution may contract with another organization to provide enrichment or educational activities for the afterschool program. However the sponsor or independent center must retain administrative and fiscal responsibility for the meal service. Furthermore, the sponsor or independent center must be the party that enters into the agreement with the TDHS and must assume responsibility for meeting all meal service requirements, including ensuring that meals are served in eligible sites.

20. Must the educational and enrichment activities offered by a non-profit afterschool program be provided by non-profit entities?

No. For-profit entities may provide the educational or enrichment activities for non-profit afterschool programs participating in the at-risk afterschool meals component of CACFP as a non-profit entity.

B. AREA ELIGIBILITY FOR REIMBURSEMENT PURPOSES

1. How does an at-risk afterschool site qualify as area eligible?

An at-risk afterschool site qualifies as area eligible if it is located in the attendance area of a public school (i.e., elementary, middle, or high school) at which at least 50 percent of the students are eligible for free or reduced price meals [7 CFR § 226.17a(i)].

2. May afterschool programs use private or charter school free and reduced price enrollment data to qualify as area eligible?

If an afterschool program site is located in a private or charter school, then that site may use the free and reduced price enrollment data for that private or charter school, or free and reduced price enrollment data for the public school in whose attendance area the private or charter school is located, to qualify as an area eligible site. However, since most private and charter schools do not have defined attendance areas, an afterschool program may not use private or charter school free and reduced price enrollment data for purposes of determining area eligibility unless the afterschool program is actually located in the private or charter school.

3. How should organizations operating at-risk afterschool care programs obtain free and reduced price school enrollment data?

These organizations should contact the TDHS. The TDHS receives free and reduced-price enrollment data on an annual basis from the Tennessee Department of Education (TDOE). Section 210.19(f) of the NSLP regulations requires the TDOE to annually provide to the TDHS a list of all public schools in the State in which 50 percent or more of the enrolled children have been determined eligible for free or reduced price meals [7 CFR §226.17a(i); CACFP 5-2011, *Area Eligibility for Family Day Care Homes,* December 22, 2010].

4. Can school district wide data be used to establish area eligibility or must data from individual school buildings be used?

Only data from the appropriate individual school may be used to establish a site's area eligibility [7 CFR §226.17a(i)].

5. If a school district has mandated busing of students, can free and reduced price school data be used to determine a site's area eligibility?

Yes. If an at-risk afterschool care program is located in an area that has mandated busing of students, site eligibility based on school data may be determined using one of two methods. The Program sponsor may determine eligibility based on the enrollment/attendance data obtained for:

- the school the children attend and are bused to, or
- the school the children would have attended were it not for the school's busing policy (the neighborhood school where the children live).

Area eligibility may be determined as described above only if the school food authority is able to document the percentage of children eligible for free and reduced-price meals at each school before and after students are reassigned. The same method of determining site

eligibility must be used for all sites participating under that Program sponsor to avoid duplicate counting [CACFP 02-2011, *Effects of Busing on Area Eligibility in Child and Adult Care Food Program*, December 6, 2010].

6. If schools have unassigned attendance areas (i.e., parents can choose where to send their children from among several schools), what data should be used to determine a site's area eligibility?

In school districts with unassigned school attendance areas, at-risk afterschool care programs located in school buildings should use the free and reduced price enrollment data from that particular school for purposes of determining area eligibility. We will work with State institutions on a case-by-case basis to determine the area eligibility of at-risk afterschool care programs operating in non-school sites in areas with unassigned attendance areas. State institutions should contact their FNS Regional Office if they encounter this situation.

7. If area eligibility was determined by a school that closes, may census data be used instead?

No. Census data may not be used to establish area eligibility for the at-risk afterschool component of CACFP. CACFP regulations require that, except for emergency shelters, at-risk afterschool programs must be located in the attendance area of a public school (an elementary, middle, or high school) where at least 50 percent of the students are eligible for free or reduced price meals under the NSLP [7 CFR §226.17a(i)].

8. Is there a particular month of school data that must be used?

Under the CACFP, NSLP data collected in the most current October, or another month selected by the TDOE, must be used to establish a site as area eligible. For example, if a site applies for area eligibility in August 2013, the most current October data would be October 2012. If a site applies for area eligibility in December 2013, the most current October data would be October 2013 [7 CFR § 226.17a(i)2].

9. How long is a determination of a site's area eligibility valid?

A site's area eligibility determination made under CACFP is valid for 5 years. The TDHS may determine the date in the fifth year in which the next five-year cycle of area eligibility will begin [7 CFR §226.17a(i)3].

10. Do emergency shelters have to prove that they are located in a low-income area to participate?

Emergency shelters that operate afterschool programs with education or enrichment activities for homeless children and youth during the school year may participate without

regard to location [7 CFR §226.2 Definitions]. Emergency shelters may only claim a total of three meals or two meals and one snack, per child per day.

11. I run an afterschool program that is not in an eligible area, but 50 percent of the children I serve receive free and reduced price school meals? Is my center eligible to participate in the program?

No. CACFP regulations require that, except for emergency shelters, at-risk afterschool programs must be located in an eligible area to participate. There is no alternate method, such as relying on census data or individual income eligibility, to determine area eligibility.

C. APPLICATIONS/AGREEMENTS

1. How do interested schools and organizations participate in these programs?

The TDHS must establish application procedures for interested organizations. At a minimum, the application must enable the TDHS to determine whether the eligibility criteria for CACFP are met. Additionally, the application must identify all at-risk afterschool program sites and provide documentation of the attendance area within which the applicant sites are located. If an institution is approved, it must enter into a permanent agreement with the TDHS that specifies the terms and conditions of participation.

D. REIMBURSEMENT AND RECORDKEEPING

1. What are the reimbursement rates for CACFP at-risk afterschool meals and snacks?

All meals and snacks are reimbursed at the free rate. The reimbursement rates are adjusted annually every July 1. Current reimbursement rates are available on the CACFP website: http://www.fns.usda.gov/cnd/care.

2. How does a child care center that uses claiming percentages or blended rates claim free meals and/or snacks for its at-risk afterschool meals component in CACFP?

All organizations participating in the at-risk afterschool meals component of CACFP must submit separate meal counts for the at-risk afterschool meals program. This includes child care centers that are currently participating in CACFP and using claiming percentages or blended rates. State institutions are responsible for amending their reimbursement forms and payment systems to recognize a separate entry for at-risk afterschool meals and snacks.

3. What records are required to receive reimbursement for meals and snacks served?

In the at-risk afterschool component of CACFP, the following records must be maintained:

- Daily attendance rosters, sign-in sheets, or with the TDHS's approval, other methods which result in accurate recording of daily attendance;
- Records of the number of snacks and/or meals prepared or delivered for each meal service;
- The number of at-risk afterschool snacks and/or meals served to participating children for each meal service; and
- Menus for each at-risk afterschool snack and meal service [7 CFR § 226.17a(o)].

4. Are point-of-service meal counts and production records required?

Point-of-service meal counts are not required in the at-risk afterschool component of CACFP. However, accurate meal count records must be maintained. Additionally, production records are not required by USDA. Documentation of compliance with the meal pattern and records of all necessary, reasonable, and allowable costs, including food are required under the CACFP [7 CFR §226.17a(o)].

E. ELIGIBLE CHILDREN

1. Are at-risk afterschool meal and snack reimbursements restricted to children ages 13-18?

No. Reimbursement may be claimed for meals and snacks served to all children through the age of 18 in eligible afterschool programs. Reimbursement also may be claimed for those children who turn age 19 during the school year [7 CFR § 226.17a(c)].

Additionally, States may not restrict participation in the at-risk afterschool meals component of CACFP to children of a certain age. However, individual afterschool programs may limit the ages of the children they serve. [See Question A-6.]

2. Are at-risk afterschool programs eligible to receive reimbursement for meals and snacks served to pre-primary children?

Meals and snacks served to children who are attending classes of preprimary grade in a school (for example, Head Start or Even Start) and who are participating in an eligible afterschool program after their regularly scheduled school program may be claimed for reimbursement. For example, serving lunch and an afternoon snack to children after half-day kindergarten or a half-day Head Start Program is allowable because their school day has ended.

F. MEAL SERVICE REQUIREMENTS

1. Must a certain amount of time elapse between meal services when schools or organizations operate other nutrition programs in addition to the at-risk afterschool meals component of CACFP?

There are no time restrictions for meal or snack service and no specific amount of time has to pass between the meal services. However, States may implement policies regarding minimum time elapsed between snacks and meals. (Note that this would be an additional State requirement requiring Regional Office approval.)

2. Is there any length of time tied into the conclusion of school and the service of a meal or snack?

No. There is no federally mandated time limit between the end of school and service of the meal or snack.

3. Is there a particular time of day that CACFP at-risk afterschool programs must serve meals and snacks on weekends and holidays?

No. Although meals and snacks served on weekdays when school is in session must be served after the child's school day has ended, meals and snacks served through the at-risk afterschool component of CACFP on weekends or holidays may be served at any time of day with TDHS approval [7 CFR § 226.17a(m)].

4. If an afterschool program serves both a supper and snack under CACFP, does the snack need to be served before the supper?

No. We recognize some children, especially those who have eaten lunch early in the day, arrive at the center hungry and ready to eat a full meal. In such cases, it may be more appropriate to serve an early supper and then serve a snack later in the evening.

5. Are afterschool programs permitted to serve two snacks instead of one meal and one snack?

The Richard B. Russell National School Lunch Act clearly states that institutions participating in the at-risk afterschool meals component of CACFP may be reimbursed for only one meal and one snack. However, because serving an additional snack in lieu of a meal would not exceed the maximum meal benefit allowed by law and therefore would not increase cost to the program, State institutions are authorized to waive this requirement on a case-by-case basis and allow institutions to serve two snacks instead of one meal and one snack. This will allow State institutions to provide additional flexibility to institutions that

may not have the capacity to serve a full meal. We strongly encourage institutions to provide a full meal whenever possible in order to meet the nutritional needs of the children served.

6. Is there an offer-versus-serve (OVS) option for at-risk afterschool meals and snacks?

OVS is available only to schools or facilities sponsored by or receiving meals from schools, but may not be used for snacks [CACFP 23-2011, *Clarification on the Substitution of NSLP Meals and the Use of Offer Versus Serve and Family Style Meal Service,* May 17, 2011]. However, family style meal service is an option available to all CACFP institutions.

7. May USDA Foods be used for at-risk afterschool meals and snacks?

Yes. Afterschool programs may use USDA Foods in their afterschool snack and/or meal service. Please note, however, that the school or institution will not earn additional entitlement foods as a result of serving afterschool snacks. The amount of entitlement foods earned will continue to be based solely upon the number of lunches or suppers served to children.

8. When an at-risk afterschool program operates during the week and on weekends, do the weekday and weekend meal service times need to be the same?

No. Meals and snacks served through CACFP on weekends or holidays may be served at any time of day as approved by the TDHS.

9. May two different fruits or vegetables be used to make up one meal component?

Yes. Two different fruits and/or vegetables may be served, but they only meet the requirement of one component. Therefore, at snack another component must be served with the fruits and vegetables. For example, celery stalks, carrot sticks, and peanut butter could be a reimbursable snack. However, celery sticks and carrot sticks alone would not.

10. Must institutions participating in multiple Child Nutrition Programs (for example, NSLP, CACFP, and SFSP) keep their food inventories separate?

There is no Federal requirement that food inventories used for the various Child Nutrition Programs be stored separately. However, accurate records must be maintained for the individual programs, including allocation of food costs between multiple programs.

11. May all meals be served cold? Is there any requirement for a certain number of hot meals?

There is no Federal requirement that any meals be served hot. All requirements for meals are outlined in 7 CFR §226.20. It is possible to meet the meal pattern requirements without serving hot meals.

12. Are there any resources available to assist in menu planning?

Yes. The Healthy Meals Resource System is an online information center for USDA Child Nutrition, http://healthymeals.nal.usda.gov. The Healthy Meal Resource System provides several menu planning tools including; food buying guides, calculators, cycle menus, and recipes. Other resources are available on FNS' Team Nutrition Website, http://teamnutrition.usda.gov.

G. MONITORING

1. What are the monitoring requirements for sponsors receiving reimbursement for snacks and/or meals in at-risk afterschool programs?

Sponsors of sites participating in the at-risk afterschool meals component of CACFP must review their sites at least three times each year. At least two of the three reviews must be unannounced; and one of the unannounced reviews must include observation of a meal service. The timing of the unannounced reviews must be varied so that they are unpredictable to the sponsored facilities. Also, at least one of these reviews must be made during each site's first four weeks of Program operations, and not more than 6 months may elapse between reviews [7 CFR §226.16(d)(4)(iii)].

2. What are the State administrative review requirements for at-risk afterschool institutions?

The TDHS must comply with 7 CFR §226.6(m) in conducting reviews of these institutions. These regulations require the TDHS to annually review 33.3 percent of all CACFP institutions, including those operating at-risk afterschool programs. At least 15 percent of the required reviews must be unannounced. Additionally, the current regulations require the TDHS to ensure that:

- Independent centers and sponsors of 1 to 100 facilities are reviewed at least once every 3 years; a review of such sponsors must include reviews of 10 percent of the sponsors' facilities.
- Sponsors with more than 100 facilities must be reviewed at least every 3 years. These reviews must include reviews of 5 percent of the first 1,000 facilities and 2.5 percent of the facilities in excess of 1000.
- Reviews of newly participating sponsoring organizations with five or more child care facilities must be completed within the first 90 days of Program operations.

In conducting these reviews, the TDHS must ensure that sponsors are operating eligible at-risk afterschool care programs (i.e., programs that provide children with regularly

scheduled activities in an organized, structured, and supervised environment), and is complying with all Program requirements.

EMERGENCY SHELTER COMPONENT

ELIGIBILITY AND PARTICIPATION REQUIREMENTS

Eligibility Requirements

A public or private nonprofit organization may participate as an emergency shelter if it provides temporary housing and food services to homeless children, with or without their families. Meals and snacks that are served to residential children 18 years of age and younger, and that meet USDA meal pattern requirements are eligible for reimbursement. Also, meals served to residents with disabilities, regardless of age, who reside in eligible shelters may be reimbursed. All reimbursements are provided at the meal rates authorized by the USDA.

An emergency shelter may participate in CACFP as an independent shelter or as a sponsoring organization of one or more participating emergency shelters.

Licensing and Approval Requirements

To participate in CACFP, an emergency shelter does not have to offer formal child care as recognized under state licensing rules. Unlike child care centers or family child care homes, there is no federal requirement for emergency shelters operating under this component to have either federal, state, or local licensing or approval as a condition of eligibility. Although shelters do not have to meet child care licensing standards to participate in CACFP, they must comply with all applicable state or local health and safety standards. The shelter must have the appropriate inspections or permits to certify that proper health, sanitation, fire, and safety codes are met at all times.

Reimbursement

Residential children who participate in the shelter's food service will be automatically eligible for free meals and snacks, without further application. Although a shelter may collect cash, SNAP benefits, or other in-kind payments from some residents for their meal services, it may not charge or collect payments for CACFP meals and snacks served to eligible children.

Emergency shelters may be approved to serve up to three reimbursable meals (i.e., breakfast, lunch, and supper) or two meals and one snack, to each child, each day, on weekdays and weekends.

The maximum payment rates are based on the numbers of meals and snacks served at the free in child care centers.

Meals which are consumed in private family quarters in an emergency shelter are not reimbursable. Generally, only meals served in congregate meal settings are eligible for reimbursement. An exception may be made for meals served in private family quarters that are part of an emergency shelter for infants from birth through age 11 months.

Reporting and Record-keeping

Each participating shelter must maintain records on the number and type of meals served to eligible children and infants. In addition, shelters must keep records that are adequate to determine the non-profit status of the food service and proper utilization of CACFP funds. At a minimum, shelters must maintain a daily attendance of the children. This attendance record must identify the name of each child who receives meals, and the total meal counts by type of meal. All menus that support the meal services must meet the following requirements:

1. All food components, as required for each type of meal to be served (i.e., breakfast, lunch, supper and supplement), are identified;

2. Each menu accurately lists the food items that are to be served, including any substitutions that are inserted on the menu before the beginning of the meal service;

3. **All food items that are identified on the menus are supported by purchase receipts;**

4. The specific date of use is identified, including the day, month and year; and

5. Each menu is posted in a conspicuous place for all parents and guardians to observe.

It is also recommended that the specific names of all breads or bread alternates, meats or meat alternates, vegetables, fruits and juices be identified on the menus supporting all meal services.

Special Notes for Infant Meals

Either breastmilk or iron fortified infant formula must be served at each infant meal. In addition, each meal should be of a texture and consistency appropriate for the age of the infant, and should be served consistent with the infant's eating habits. Solid foods should be introduced gradually to infants, age four months and older, to ensure their nutritional well being. In serving and claiming infant meals, please note the following:

1. It is recommended that breastmilk be served in place of iron-fortified formula for infants, age birth through 11 months of age;

2. For those infants which are breast fed and who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be served with additional breastmilk offered if the infant remains hungry;

3. An infant meal is reimbursable if the iron-fortified infant formula is supplied by either the child care provider or the parent or guardian;
4. Cow's milk must **not** be served to infants who are less than 1 year of age;

5. Infant formula means any iron-fortified formula intended for dietary use solely as a food item for normal healthy infants, and excludes those formulas specifically designed for infants who have metabolism, digestive or absorptive problems unless supported by a medical statement.

6. Infant formula must be served in a liquid state at recommended dilution;

7. Infant formula and dry infant cereal must be iron-fortified;

8. Meals that are served to infants, age birth through 7 months of age, and that contain only breastmilk (as expressed by the mother) or only iron-fortified infant formula supplied by either the child care provider or the parent or guardian may be claimed for reimbursement;

9. Meals that are served to infants, age 8 months through 11 months, must include all other required components to be furnished by the child care provider to be eligible for CACFP reimbursement;

10. Fruit juice, when served as a snack component, must be full-strength;

11. The serving of orange and grapefruit juice should be avoided because they are more likely to cause an allergic reaction;

12. Bread or crackers must be made from whole-grain or enriched flour; and

13. Nuts, seeds and nut butters are not allowed as a meat alternate.

Late/Revised Claims for Reimbursement

Claims for reimbursement must be submitted on a monthly basis to the TDHS. Claims for partial months are not accepted. All completed and signed claim forms must be received by the TDHS within 30 days following the close of the claiming period. Any claim received more than 30 days following the close of a claiming period is considered a "late claim". A "late claim" received less than 60 days following the close of a claiming period may be paid providing an acceptable explanation for the late submission is provided, and the "late claim" does not exceed the one revised claim per sponsor per month policy.

If a "late claim" is received more than 60 days following the close of the claiming period, the claim may be paid only if the following conditions are met:

1. An acceptable explanation for the late submission is received;

2. The "late claim" does not exceed the one revised claim per institution per month policy, and

3. The provisions of Policy Memorandum 226.10-2 issued by the USDA are met. As provided by this federal memorandum, a claim received more than 60 days following the close of the claiming period may be paid if the affected institution has not received payment during the past 36 months for another claim received more than 60 days following the close of the claiming period. The only exception to this policy is if the USDA determines that the late submission was beyond the control of the affected institution.

If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the close of the claiming period. All revised claims are to be limited to one per month. If a revised claim is to result in an upward adjustment, the claim must be received within 90 days following the month in which the meals were served.

Commodities

An approved shelter may continue to receive and use commodity foods from the Emergency Food Assistance Program for the meals it serves to adults and children who are not eligible for CACFP. This is providing that the shelter's records are sufficient to establish its allotments of commodities under each program.

It is recognized that shelters often serve a diverse clientele that include homeless and non-homeless adults and children. In those situations where a shelter's total food service is not conducted exclusively for the benefit of eligible residential children, the shelter must keep separate records of the meals it serves. Meals served to non-eligible adults and children are not reimbursable.

MEAL PATTERNS AND SERVICES

Meal Patterns

All meals must meet the meal patterns established by the USDA to be eligible for CACFP reimbursement. These required meal patterns are as follows:

Infant Meal Pattern
Breakfast

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breastmilk[2,3]	**4-8 fluid ounces of formula[1] or breastmilk[2,3];** **0-3 tablespoons of infant cereal[1,4]**	**6-8 fluid ounces of formula[1] or breastmilk[2,3]; and** **2-4 tablespoons of infant cereal[1]; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Lunch or Supper

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-8 fluid ounces of formula[1] or breast milk[2,3];** **0-3 tablespoons of infant cereal[1,4] ; and** **0-3 tablespoons of fruit or vegetable or both[4]**	**6-8 fluid ounces of formula[1] or breast milk[2,3];** **2-4 tablespoons of infant cereal[1] ; and/or** **1-4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or** **½-2 ounces of cheese; or** **1-4 ounces (volume) of cottage cheese; or** **1-4 ounces (weight) of cheese food or cheese spread; and** **1-4 tablespoons of fruit or vegetable or both**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.

Infant Meal Pattern
Supplement (Snack)

Birth through 3 Months	*4 through 7 Months*	*8 through 11 Months*
4-6 fluid ounces of formula[1] or breast milk[2,3]	**4-6 fluid ounces of formula[1] or breast milk[2,3]**	**2-4 fluid ounces of formula[1] or breast milk[2,3], or fruit juice[5]; and 0-½ bread[4, 6] or 0-2 crackers[4, 6]**

[1] Infant formula and dry infant cereal must be iron-fortified.
[2] Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.
[3] 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 if the infant is still hungry.
[4] A serving of this component is required when the infant is developmentally ready to accept it.
[5] Fruit juice must be full-strength.
[6] A serving of this component must be made from whole-grain or enriched meal or flour.

Breakfast for Children
(Select All Three Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	½ cup
1 grains/bread[3] bread or cornbread or biscuit or roll or muffin or cold dry cereal or hot cooked cereal or pasta or noodles or grains	1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/4 cup	1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/4 cup	1 slice 1 serving 3/4 cup 1/2 cup 1/2 cup

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

Lunch or Supper for Children
(Select All Four Components for a Reimbursable Meal)

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	¾ cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish[4] or	1 oz.	1½oz.	2 oz.
alternate protein product or	1 oz.	1½ oz.	2 oz.
cheese or	1 oz.	1½ oz.	2 oz.
egg or	1/2	3/4	1
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds[5] or	1/2 oz.	3/4 oz.	1 oz.
yogurt[6]	4 oz.	6 oz.	8 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

SUPPLEMENT (Snack) for Children
Select Two of the Four Components for a Reimbursable Snack

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread[3]			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish[4] or	1/2 oz.	1/2 oz.	1 oz.
alternate protein product or	1/2 oz.	1/2 oz.	1 oz.
cheese or	1/2 oz.	1/2 oz.	1 oz.
egg[5] or	½	1/2	1/2
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds or	1/2 oz.	1/2 oz.	1 oz.
yogurt[6]	2 oz.	2 oz.	4 oz.

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[6] Yogurt may be plain or flavored, unsweetened or sweetened.

USDA Food Buying Guide

The USDA Food Buying Guide is given as part of the initial application process and must be utilized for more specific information regarding food service and meal patterns.

Meal Service Restrictions

Emergency shelters are subject to the following meal service restrictions:

1. May be approved to serve and be reimbursed for up to two meals and a snack, or two snacks and one meal per participating child per day;

2. May not claim reimbursement for meals served to children who are not served by the shelter;

3. Must serve meals that meet the meal pattern requirements established by the USDA;

4. May claim only those meals types that are identified in the applications approved by the TDHS; and

5. Must serve all meals during the times identified in applications approved by the the TDHS.

Methods for Provision of Meals

Meals may be provided through the following means:

1. On-Site Preparation: Meals may be prepared at the same site where they are to be served.

2. Central Kitchen: Meals may be prepared in one central kitchen and transported to the participating feeding sites.

3. Purchasing From a School: Meals either in bulk or as individual units may be purchased from a school food service. Institutions which receive meals from a school must enter into a written contract with that school. All pertinent CACFP requirements must be embodied in the written contract between the institution and school.

   Signing a contract does not relieve the institution of its program responsibilities for monitoring and record keeping. The school must provide dated copies of the menus for all meals served.

4. Purchasing From a Food Service Management Company or Commercial Vendor: Food service management companies or commercial vendors are profit oriented organizations (other than schools) which may be used to prepare and deliver meals to the feeding sites. Institutions which receive meals from a food service management company must enter into a written contract with the company. All such contracts exceeding $100,000 must be awarded through an invitation to bid and must be approved by TDHS prior to their execution. Signing a contract with a food service management company does not relieve the institution of its program responsibilities for monitoring and record-keeping.

   A copy of the contract between each institution and food service management company must be submitted to TDHS for approval prior to the beginning of program operations under the contract.

Styles of Meal Services

The following meal service styles may be observed in the CACFP:

1. Pre-portioned: The minimal requirement or more of food for each required components is given on a plate or tray.

2. Family Style: Enough food must be placed on each table to provide minimum portions or more of each required components for all at the table, and to accommodate program adult(s) supervising meal service at the table if they eat.

   Some amount of each required component must be served to each child and at least the minimum regulatory portion must be offered to the participant.

   When the full regulatory portion is not initially served, supervising adults must assume the responsibility of actively encouraging acceptance of the full portion during the course of the meal. In any style meal service the institution must prepare and serve the minimum required amounts.

   Each institution is strongly encouraged to have available at each meal service reasonable amounts to offer second helpings if requested. Unitized meals, which offer all meal components to the child at one time, must be served. Institutions may not claim "second" meals for reimbursement.

Allowable Food Substitutions

Substitutions are allowed for medical reasons or other special dietary needs if the substitutions are ordered in writing by a recognized medical authority. Copies of the medical order should be on file at the institution's office and at the meal service site (if different).

The medical order should specify the food or foods the participant is not to eat and the food or foods that may be substituted. Recognized medical authorities include, but are not limited to, physicians and registered nurses.

A separate charge cannot be made for special foods served, due to medical or other reasons, to a participant in a CACFP reimbursed meal.

Procurement Standards

While institutions have the responsibility to prepare and serve reimbursable meals in their own facilities, they may agree to obtain program food items or meals through other public or private sources.

Those institutions that purchase meals, food items, supplies, equipment, or related services from food service management companies, or commercial vendors must adhere to the procurement provisions governing the program as found in 7 CFR Part 226.22

In addition, private non-profit institutions are required to follow the federal regulations at 7 CFR 3019 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations provide for a "small purchase threshold" of $100,000. This means that all purchases made with USDA funds at or below $100,000 are considered "small purchases" and may be acquired with an informal process of obtaining quotes.

Public institutions must follow the federal regulations at 7 CFR 3016 in purchasing meals, food items, supplies, equipment, or related services from a commercial vendor. These regulations establish the "small purchase threshold" as the lower of $100,000 or the threshold set by state or local law.

All procurements of $100,000 or more for meals, equipment, or other services must be formally advertised and meet the following requirements:

1. The TDHS must be notified and public announcement of the bid solicitation must be made at least 14 calendar days before the opening of bids;

2. The bid announcement must include the time and place of the bid opening and information about obtaining a copy of the complete specification for the procurement item;

3. The TDHS must approve in advance the Invitation for Bid (IFB) and Contract form for the procurement, and the IFB must be made available so that all prospective bidders will have an equal chance of receiving the contract award;

4. The IFB may not provide for loans or other monetary benefits, terms or conditions to be made by food service management companies or commercial vendors;

5. Bids must be opened publicly;

6. Bids must be submitted to the TDHS for approval; and

7. The TDHS must be informed as to which bid will be chosen. If the lowest bid is not accepted, a justification for awarding the contract to a higher bidder must be provided.

In addition, a code of conduct must be maintained that prevents the exchange of anything of monetary value between the contractor and the center or sponsor that might influence the award or prohibit maximum open and free competition. Institution staff are to be alert to conflict of interest situations and avoid them.

CIVIL RIGHTS

CIVIL RIGHTS

General

Compliance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 is a mandatory part of the CACFP.

All child and adult care facilities, after-school care programs and emergency shelters participating in the CACFP are required to:

1. Allow equal access to their facilities; and

2. Serve meals to all attending participants equally, regardless of race, color, national origin, disability, sex, and age.

Prohibited Discrimination

Some specific examples of non-compliance with Title VI are:

1. Inequitable allocation of program benefits or services to eligible participants on the basis of race, color, national origin, sex, age, or disability;

2. Service or delivery of foods in a place or manner that results in or has the effect of denying or limiting the benefits of the program on the basis of race, color, national origin, sex, age or disability;

3. Segregation through recruitment, referral, or enrollment systems;

4. The selection of institutions or facilities for participation in the CACFP which has the effect of, or results in limiting the availability of program benefits or services on the basis of race, color, national origin sex, age or disability; and

5. Failure to apply the same eligibility criteria to all persons seeking participation in the CACFP. Allow access to services and facilities, regardless of race, color, sex, age, disability, or national origin.

Public Notification

1. Display in a prominent place the "..And Justice for All" Poster.

2. Inform the public about the availability of the CACFP in an public release (A sample public release form is available from TDHS staff upon request.)

3. Include the non-discrimination statement and procedure for filing complaints in all information concerning the program or program activities which is distributed to parent/guardian of both current beneficiaries and potential beneficiaries. This information should be distributed to parent/guardian or be made available at the center. A sample non-discrimination statement and procedure for filing complaints is available from TDHS staff upon request.

Data Collection

All institutions are required to:

1. Determine the number of actual beneficiaries (participants) by racial/ethnic category for each child care center. Racial/ethnic categories include: American Indian or Alaskan Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; Hispanic or Latino; and White.

   This racial/ethnic data must be maintained and readily available for review for a period of three years of until an audit has been conducted. Visual identification may be used by institutions to determine a beneficiary's racial/ethnic category.

   Institutions may ask participants or parents/guardians for racial/ethnic group identity. Participants must be given an explanation that the collection of this information is strictly for statistical reporting requirements and does not effect their eligibility to receive benefits under the program.

2. Determine, for the area served, the estimated number of potential eligible beneficiaries by racial/ethnic category including sources of this information. This data must be reported annually, and maintained on file for three years or until an audit has been conducted. Sources of information for potential eligible beneficiaries may include, but are not limited, to census data or public school enrollment data.

3. Safeguard the data collected and prevent its use for discriminatory purposes while being maintained.

Participant Civil Rights Grievance Procedures

The following basic rules govern Civil Rights complaints:

1. Have a system for handling complaints which can be documented.

2. A complaint must be taken in any form, written or verbal, at any level, and an institution must notify TDHS immediately of any complaints received. If the allegation is made verbally, and the complainant does not wish to submit the

allegation in writing, the person receiving the allegation must reduce the allegation to written form.

3. All complaints must be processed within 90 days of initial receipt.

TRAINING

TRAINING

Pre-Operational Training

Training is absolutely vital if the CACFP is to operate properly. Each sponsoring organization must thoroughly train the personnel of its sponsored child care centers or homes on all program duties and responsibilities before ACFP operations commence.

Annual Training

All institutions and sponsoring organizations must provide training at least once a year for all personnel of the institution and sponsoring organization and for all personnel of sponsored centers and homes to review program requirements. In addition, all new personnel must be thoroughly trained before beginning their work in the program.

The annual training provided by TDHS personnel on application requirements and program operations does not meet this annual training requirement.

NON-DISCRIMINATION

NON-DISCRIMINATION

General

All institutions that participate in the CACFP must agree to fully comply with Title VI of the Civil Rights Act of 1964 (P. L. 88-352), Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Americans with Disabilities Act, and all requirements imposed by the regulations of the USDA (7 CFR Part 15), Department of Justice (28 CFR Parts 42 and 50) and USDA directives or regulations issued pursuant to that Act and the Regulations, to the effect that, no person shall, on the ground of race, color, national or ethnic origin, sex, age, military service or disability, be excluded from participation in, be denied benefits of, or be otherwise subject to discrimination under the CACFP or any program or activity for which Federal or State funds are received. Institutions must also agree to immediately take any measures necessary to effectuate these mandated non-discrimination and equal opportunity provisions.

In meeting these provisions, all institutions must agree to compile data, maintain records and submit reports as required, to permit effective enforcement of Title VI and permit the TDHS, Tennessee Comptroller of the Treasury, USDA and other appropriate state and federal agencies during normal working hours to review such records, books and accounts as needed to ascertain compliance with non-discrimination and equal opportunity laws. If there are any violations of these laws, the TDHS, Tennessee Comptroller of the Treasury, USDA and other appropriate state and federal agencies shall have the right to seek judicial enforcement.

Institutions must also provide any auxiliary aids or services needed by disabled staff to facilitate their participation at training sessions.

Filing Complaints

All persons who believe that they or members of their family have been discriminated against and/or denied benefits on the basis of race, color, national origin, sex, age or disability in the CACFP may file a complaint. Complaint forms are to be maintained by all institutions. Complaints may be submitted by mail or telephone at both of the following addresses and telephone numbers:

U.S. Department of Agriculture
Director of Office of Civil Rights
Whitten Building, Room 326-W
1400 Independence Avenue, SW
Washington, DC 20250-9410
Telephone: (202) 720-5964 (Voice and TDD)

Tennessee Department of Human Services
Child and Adult Care Services
400 Deaderick Street
Nashville, Tennessee 37248-9500
Telephone (615) 313-4749

Language Assistance for Persons with Limited English Proficiency (LEP)

The U.S. Department of Justice has published guidance on reducing language barriers for persons seeking access to federally funded benefits. As provided by this guidance, the policies, practices or procedures of any CACFP institution which have the effect of excluding or limiting the receipt of federally funded benefits by any LEP person may result in discrimination which violates Title VI of the Civil Rights Act of 1964. To ensure compliance with Title VI, all institutions must develop a written plan to ensure that eligible LEP persons have meaningful access to the CACFP. The written plan is to be maintained by all institutions and available for examination by appropriate state and federal personnel.

ALLOWABLE AND UNALLOWABLE COSTS

ALLOWABLE AND UNALLOWABLE COSTS

Costs which may and may not be charged to the CACFP are governed by the Financial Instruction 796-2, Revision 3 issued by the USDA. A summary of the instruction is attached as Exhibit 1.

MONITORING PROCEDURES AND MEAL DISALLOWANCE POLICY

STATE MONITORING PROCEDURES AND MEAL DISALLOWANCE POLICY

General

All monitoring reviews of CACFP contract institutions are performed by the TDHS Office of Program Review. The reviews are performed to determine compliance with the federal regulations at 7 CFR Part 226, the USDA Financial Instruction 796-2, Revision 3, and the TDHS Polices and Procedures Manual.

Monitoring Procedures

All monitoring reports are reviewed to evaluate compliance with program policies and procedures. When the evaluations are completed, letters are sent to the affected institutions by TDHS staff to advise of the report findings. If program deficiencies are found, the institutions are required to complete, sign and return a corrective action plan that identifies the measures to be taken and the timetable for the completion of the measures. The institutions are also required to submit revised claims to address overpayments and underpayments determined by the monitoring findings. If overpayments are determined for a prior program year, the overpayments will be recovered through checks or money orders made payable to the TDHS. Additional visits for training and monitoring purposes are conducted as appropriate.

Meal Disallowance Procedures

Meal payments received by CACFP institutions are subject to disallowance and recovery by the TDHS for the following program deficiencies:

1. Deficiency:

   Missing components in a meal are observed on the day of review.

   Action:

   All meals observed with missing components will be disallowed.

2. Deficiency:

   Menus on file indicate that meals have been served with missing components.

   Action:

   All meals served with missing components will be disallowed based on an analysis of menus for the review month(s).

3. Deficiency:

Meals with inadequate quantities of milk are served during the day of review.

Action:

Meals with inadequate milk on the day of review will be disallowed.

4. Deficiency:

Meals are served with substitute or missing components for medical reasons without medical certificate(s) on file.

Action:

The meals will be disallowed for the day of review and for the review month(s).

5. Deficiency:

An insufficient amount of milk was purchased and available during the review month(s) to provide a correct serving of milk with every meal claimed.

Action:

The number of meals claimed for the review month(s) which did not contain adequate milk will be disallowed.

6. Deficiency:

The number of correctly approved free and reduced-price applications do not support the number of participants reported on the reimbursement claim(s).

Action:

The affected subrecipients will be directed to submit revised reimbursement claim(s) to identify the correct number of participants in the free, reduced price and paid categories for the review month(s).

7. Deficiency:

The subrecipient has no dated menus or has used cycle menus but not indicated the date(s) of use for the review month(s).

Action:

All meals served during the review month(s) that are not supported by dated menus will be disallowed.

8. Deficiency:

Meals are served at a facility not approved by the TDHS.

Action:

All meals claimed retroactive to the date when meals were first claimed for the facility will be disallowed.

9. Deficiency:

Meals served at a non-licensed facility are claimed for reimbursement.

Action:

If the facility has never been licensed, all meals claimed by the facility will be disallowed. If the license has only recently lapsed and the provisions of 7 CFR Part 226.6 (d) (1) (ii) are applicable, no meals claimed from the date the license expired until the date the new license begins will be disallowed.

10. Deficiency:

Meals are served in excess of license capacity.

Action:

The difference between the verified number of meals served and the authorized capacity for the review month(s) will be disallowed. This deficiency shall be immediately reported to DHS licensing staff.

11. Deficiency:

No attendance or meal count records are available to support a claim for reimbursement.

Action:

All meals which are not supported by attendance or meal count records will be disallowed.

12. Deficiency:

Meals are claimed at proprietary centers when less than 25% of the enrollment or licensed capacity, whichever is less, are beneficiaries of the Tennessee Child Care Certificate Program, or eligible for free or reduced-price meal reimbursements.

Action:

All meals claimed during the review month(s) will be disallowed.

HOUSEHOLD CONTACT POLICY

HOUSEHOLD CONTACT POLICY

The Interim Rule issued by the U.S. Department of Agriculture on September 1, 2004, requires that all CACFP state institutions have household contact systems. This policy establishes the household contact system to be utilized by the TDHS in the review of independent centers and those centers and homes that participate under sponsoring organizations. This policy also establishes the household contact system to be utilized by sponsoring organizations in the review of their sponsored centers and homes.

TDHS Household Contact System

State Level Reviews of Sponsoring Organizations of Child Care Centers

The following findings will require household contacts and administrative action by the TDHS in conducting reviews required by 7 CFR Part 226.6 (m) (4) (i) and (ii):

1. Inconsistency between Attendance and Meal Counts:

   a. During each feeding site review, the number of participants observed in attendance at the meal service will be compared to the number of meals reported for the previous 5 days and to the participants' enrollment forms to detect any significant and inexplicable inconsistency between the observed attendance and previous meal counts;

   b. If any significant and inexplicable inconsistency is found between the observed attendance and the number of meals reported for the 5 previous operational days, state monitoring personnel will contact the parents and guardians of the participants; and

   c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

      If it appears that the false claim was unknowingly submitted by the sponsor, the TDHS may initiate the serious deficiency process and will require the sponsor to implement corrective action. However, if it appears that the false claim was knowingly submitted by the sponsor, the TDHS may suspend the sponsor's CACFP participation, and will initiate action to terminate the sponsor's Grant Contract.

      If the false claim concerns an unaffiliated center and the TDHS determines that the claim was unknowingly submitted by the center, the TDHS will instruct the sponsor to require corrective

action by the center. However, if it appears that the false claim was knowingly submitted by the center, the TDHS will direct the sponsor to terminate its agreement with the center.

2. Irregularities with Participant Eligibility Applications:

   a. Participant eligibility applications will be reviewed for any irregularities including, but not be limited to, applications from different households which appear to have parent or guardian signatures in the same handwriting, applications that appear to have been changed with correction fluid or tape, and applications that are found with data that appears to be entered after the applications were signed by the parents or guardians;

   b. If any irregularities are found, state monitoring personnel will contact the parents and guardians of the affected participants; and

   c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

      If it appears that the false claim was unknowingly submitted by the sponsor, the TDHS may initiate the serious deficiency process and will require the sponsor to implement corrective action. However, if it appears that the false claim was knowingly submitted by the sponsor, the TDHS may suspend the sponsor's CACFP participation, and will initiate action to terminate the sponsor's Grant Contract.

      If the false claim concerns an unaffiliated center and the TDHS determines that the claim was unknowingly submitted by the center, the TDHS will instruct the sponsor to require corrective action by the center. However, if it appears that the false claim was knowingly submitted by the center, the TDHS will direct the sponsor to terminate its agreement with the center.

3. Block Claiming:

   a. Claiming information from sponsored facilities will be examined to detect any block claiming (i.e., number of meals claimed for one or more meal types was identical for 15 consecutive days);

   b. If block claiming is detected, the enrollment and attendance records for the claiming period will be examined;

c. If the enrollment and attendance records appear to indicate false claiming for any participants, contacts will made with the parents and guardians of these participants; and

d. If any of the contacts with the parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

If it appears that the false claim was unknowingly submitted by the sponsor, the TDHS may initiate the serious deficiency process and will require the sponsor to implement corrective action. However, if it appears that the false claim was knowingly submitted by the sponsor, the TDHS may suspend the sponsor's CACFP participation, and will initiate action to terminate the sponsor's Grant Contract.

If the false claim concerns an unaffiliated center and the TDHS determines that the claim was unknowingly submitted by the center, the TDHS will instruct the sponsor to require corrective action by the center. However, if it appears that the false claim was knowingly submitted by the center, the TDHS will direct the sponsor to terminate its agreement with the center.

The monitoring reports completed by the sponsoring organizations will be reviewed to determine if household contacts and appropriate administrative actions were implemented by the sponsors for the following review findings:

1. Significant and inexplicable inconsistencies between the number of participants observed during meal services and the number of meals reported for the previous 5 days; and

2. Irregularities with participant eligibility applications including, but not be limited to, applications from different households which appear to have parent or guardian signatures in the same handwriting, applications that appear to have been changed with correction fluid or tape, and applications that are found with data that appears to have been entered after the applications were signed by the parents or guardians.

If household contacts and appropriate administrative action were not completed by the sponsoring organizations, findings will be included in state issued monitoring reports, and the TDHS will initiate the serious deficiency process for the affected sponsors.

State Level Reviews of Sponsoring Organizations of Child Care Homes

The following findings will require household contacts and administrative action by the TDHS in conducting reviews required by 7 CFR Part 226.6 (m) (4) (i) and (ii):

1. Inconsistency between Attendance and Meal Counts:

   a. The number of participants observed in attendance during the monitoring visits will be compared to the number of meals reported for the previous 5 days and to the participants' enrollment forms to detect any substantial and inexplicable inconsistency between the observed attendance and previous meal counts;

   b. If any substantial and inexplicable inconsistency is found between the observed attendance and the number of meals reported for the 5 previous operational days, state monitoring personnel will contact the parents and guardians of the enrolled participants; and

   c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

      If it appears that the false claim was unknowingly submitted by the sponsor, the TDHS may initiate the serious deficiency process and will require the sponsor to implement corrective action. However, if it appears that the false claim was knowingly submitted by the sponsor, the TDHS may suspend the sponsor's CACFP participation, and will initiate action to terminate the sponsor's Grant Contract.

      If the TDHS determines that the false claim was unknowingly submitted by the home, the TDHS will instruct the sponsor to require corrective action by the home. However, if it appears that the false claim was knowingly submitted by the home, the TDHS will direct the sponsor to initiate the serious deficiency process for the home.

2. Repeated Absences by Child Care Home Provider at Time of Unannounced Monitoring Reviews:

a. When repeated absences occurred by any home provider at the time of unannounced reviews, state monitoring personnel will contact the parents and guardians of enrolled participants; and

b. If any of the contacts with parents and guardians appear to reveal false claiming, a finding will be included in the monitoring report and appropriate meal disallowances will be made. In addition, the sponsor will be instructed to implement the serious deficiency process for the provider.

3. Tier 1 Applications:

a. Tier 1 applications for participants and providers will be reviewed for any irregularities including, but not limited to, applications from different households which appear to have parent, guardian or provider signatures in the same handwriting, applications which appear to have been changed with correction fluid or tape, and applications that are found with data that was entered after the applications were signed by the parents, guardians or providers;

b. If any irregularities are found, state monitoring personnel will contact the parents, guardians or providers; and

c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

If it appears that the false claim was unknowingly submitted by the sponsor, the TDHS may initiate the serious deficiency process and will require the sponsor to implement corrective action. However, if it appears that the false claim was knowingly submitted by the sponsor, the TDHS may suspend the sponsor's CACFP participation, and will initiate action to terminate the sponsor's Grant Contract.

The monitoring reports completed by the sponsoring organizations will be reviewed to determine if household contacts and appropriate administrative actions were implemented by the sponsors for the following review findings:

1. Significant and inexplicable inconsistencies between the number of participants observed during meal services and the number of meals reported for the previous 5 days; and

2. Repeated absences by child care home provider at time of unannounced monitoring reviews:

If household contacts and appropriate administrative action were not completed by the sponsors, findings will be included in state monitoring reports, and the TDHS will initiate the serious deficiency process for the affected sponsors.

State Level Reviews of Independent Child Care Centers

The following review findings for independent child care centers will require household contacts and administrative action by the TDHS:

1. Irregularities with Participant Eligibility Applications:

    a. Participant eligibility applications will be reviewed for any irregularities including, but not be limited to, applications from different households which appear to have parent or guardian signatures in the same handwriting, applications which appear to have been changed with correction fluid or tape, and applications that are found with data that was entered after the applications were signed by the parents or guardians;

    b. If any irregularities are found, state monitoring personnel will contact the parents and guardians of the affected participants; and

    c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

    If it appears that the false claim was unknowingly submitted by the center, the TDHS may initiate the serious deficiency process and will require the center to implement corrective action. However, if it appears that the false claim was knowingly submitted by the center, the TDHS may suspend the center's CACFP participation, and will initiate action to terminate the center's Grant Contract.

Household Contact System for Sponsoring Organizations of Child Care Homes and Unaffiliated Child Care Centers

Reviews by Sponsoring Organizations of Child Care Homes

Sponsoring organizations of child care homes will be required to implement household contacts and administrative action when sponsor reviews identify the following:

1. Inconsistency between Attendance and Meal Counts:

    a. The number of participants observed in attendance during the monitoring visits will be compared to the number of meals reported for the previous 5 days and to the participants' enrollment forms to detect any substantial and inexplicable inconsistency between the observed attendance and previous meal counts;

    b. If any substantial and inexplicable inconsistency is found between the observed attendance and the number of meals reported for the 5 previous operational days, contacts will be made with the parents and guardians of enrolled participants; and

    c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

    If it appears that a false claim was unknowingly submitted by the home provider, the sponsor will instruct the provider to implement corrective action. However, if it appears that the false claim was knowingly submitted by the provider, the sponsor will initiate the serious deficiency process for the provider.

2. Repeated Absences by Child Care Home Provider at Time of Unannounced Monitoring Reviews:

    a. When repeated absences occurred by any home provider at the time of unannounced reviews, contacts will be made with the parents and guardians of enrolled participants; and

    b. If any of the contacts with parents and guardians reveal false claiming, a finding will be included in the sponsor's monitoring report and appropriate meal disallowances will be made. In addition, the sponsor will implement the serious deficiency process for the provider.

Reviews by Sponsoring Organizations of Unaffiliated Child Care Centers

Sponsoring organizations of unaffiliated child care centers will be required to implement household contacts and administrative action when sponsor reviews identify the following:

1. Inconsistency between Attendance and Meal Counts:

   a. The number of participants observed in attendance during the monitoring visits will be compared to the number of meals reported for the previous 5 days and to the participants' enrollment forms to detect any substantial and inexplicable inconsistency between the observed attendance and previous meal counts;

   b. If any substantial and inexplicable inconsistency is found between the observed attendance and the number of meals reported for the 5 previous operational days, contacts will be made with the parents and guardians of enrolled participants; and

   c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.

      If the sponsor determines that the claim was unknowingly submitted by the center, the sponsor will instruct the center to implement corrective action. However, if it appears that the false claim was knowingly submitted by the center, the sponsor will terminate its agreement with the center and notify the TDHS.

2. Irregularities with Participant Eligibility Applications:

   a. Participant eligibility applications will be reviewed for any irregularities including, but not be limited to, applications from different households which appear to have parent or guardian signatures in the same handwriting, applications which appear to have been changed with correction fluid or tape, and applications that are found with data that was entered after the applications were signed by the parents or guardians;

   b. If any irregularities are found, the parents and guardians of the affected participants will be contacted; and

c. If any of the contacts with parents and guardians reveal that a false claim was submitted, a finding will be included in the monitoring report and appropriate meal disallowances will be made.
If the sponsor determines that the claim was unknowingly submitted by the center, the sponsor will instruct the center to implement corrective action. However, if it appears that the false claim was knowingly submitted by the center, the sponsor will terminate its agreement with the center.

Method and Documentation for Household Contracts

All household contacts are to be completed by telephone, and may be documented by the attached sample form. If the contacts are to be documented through the use of another form, the TDHS must approve the form. The TDHS and all sponsoring organizations will place at least two telephone calls to complete a contact with each household.

No Contact or Inconclusive Information

If any required household contacts are not completed after at least two attempts, or the information received from the contacts is inconclusive, the TDHS and sponsoring organizations may proceed with appropriate administrative actions to address the review findings identified above.

SAMPLE FORM FOR DOCUMENTING HOUSEHOLD CONTACT

Instructions: This form may be used to document a telephone contact with a parent or other adult household member to verify claiming information for a CACFP participant.

1. Date/Time of Contact: _____*

2. Name of Participant: _____

3. Name of Facility That Serves Participant:

   _____

4. Name of Parent or Other Adult Household Member to be contacted:

   _____

5. Household Telephone Number: _____

6. Normal Hours in Care (based on current enrollment form signed by parent or guardian):

   _____

7. Normal Meal Services (based on current enrollment form signed by parent or guardian):

   _____

8. Days and Hours of Care in Question:

   _____

9. Claiming Information Verified by Contact with Parent or Guardian:

   Was Contact with Parent or Guardian Completed: ___ Yes ___ No

   If Contact Was Completed, Was Participant in Care for the Days and Hours in Question?

   ___ Yes ___ No ___ Parent/Guardian Not Sure

   Comments: _____

   _____

_____

Signature of Person Completing Contact

*If contact is not made after two telephone calls, enter the dates and times for each attempt in Section 1, complete Sections 2 – 9 and sign form.

PROCEDURES FOR ADDRESSING SERIOUS DEFICIENCIES

PROCEDURES FOR ADDRESSING SERIOUS DEFICIENCIES

Serious Deficiencies

When serious deficiencies are found by monitoring reviews, the affected institutions are issued a Notice of Serious Deficiency and are given a specific time period to correct the deficiencies as required by the federal regulation at 7 CFR Part 226.6 (c). The Notice of Serious Deficiency will include a corrective action plan that identifies the measures to be taken and the timetable for the completion of the measures. All seriously deficient institutions are required to complete, sign and return the corrective action plan and any required revised claims to the TDHS. In general, a 30-day period is allowed for the full and permanent correction of the serious deficiencies. Serious deficiencies include, but are not limited to, the following deficiencies as identified at 7 CFR Part 226.6 (c) (3) (ii):

1. Submission of false information on the institution's application, including but not limited to a determination that the institution has concealed a conviction for any activity that occurred during the past seven years and that indicates a lack of business integrity, which 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 as defined by the TDHS;

2. Permitting an individual who is on the USDA National Disqualified List to serve in a principal capacity with the institution or, if a sponsoring organization, permitting such an individual to serve as a principal in a sponsored center or as a day care home;

3. Failure to operate the Program in conformance with the performance standards set forth in 7 CFR Part 226.6 (b) (18);

4. Failure to comply with the bid procedures and contract requirements of applicable federal procurement regulations;

5. Failure to return to the TDHS any advance payments that exceeded the amount earned for serving eligible meals, or failure to return disallowed start-up or expansion payments;

6. Failure to maintain adequate records;

7. Failure to adjust meal orders to conform to variations in the number of participants;

8. Claiming reimbursement for meals not served to participants;

9. Claiming reimbursement for a significant number of meals that do not meet program requirements;

10. Use of a food service management company that is in violation of health codes;

11. Failure of a sponsoring organization to disburse payments to its facilities in accordance with the 7 CFR Part 226.16 (g) and (h) or in accordance with its management plan;

12. Claiming reimbursement for meals served by a proprietary child care center during a calendar month in which less than 25 percent of its enrolled children, or 25 percent of its licensed capacity, whichever is less, were beneficiaries of the Tennessee Child Care Certificate Program or were income eligible for free or reduced-price meals;

13, Failure by a sponsoring organization of child care homes to properly classify its sponsored homes as Tier I or Tier II in accordance with 7 CFR Part 226.15 (f);

14. Failure by a sponsoring organization to properly train or monitor its sponsored centers or homes in accordance with 7 CFR Part 226.16 (d);

15. Use of child care home funds by a sponsoring organization to pay for the sponsor's administrative expenses;

16. Failure to perform any of the other financial and administrative responsibilities required by the regulations at 7 CFR Part 226;

17. Failure by a sponsoring organization to properly implement and administer the child care home termination and administrative review provisions identified at 7 CFR Part 226.16 (l);

18. The fact that an institution or any of its principals have been declared ineligible for any other publicly funded program by reason of violating that program's requirements, unless the institution or the principal has been fully reinstated in, or is now eligible to participate in the program and has paid any debts owed;

19. Conviction of an institution or any of its principals for any activity that occurred during the past seven years and that indicates a lack of business integrity, including 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 defined by the TDHS.

20. Any other action affecting the institution's ability to administer the program in accordance with program requirements.

Termination Procedures

If serious deficiencies are not corrected within the time period designated by the TDHS, termination procedures are implemented subject to 7 CFR Part 226.6 (c). A Notice of Intent to Terminate will be issued by the TDHS by certified mail, unless immediate termination is warranted based on the actions of the institution which imminently threaten the health and safety of participants or the public. The notice will inform the institution of the ground(s) for termination. The notice will also inform the institution of its right to appeal the proposed termination action, and advise that meal payments will not be withheld during the appeal process if appropriate records to support the payments are available for review.

If the proposed termination action is upheld by the Commissioner's designee for customer appeals, the TDHS will issue a letter to the institution advising that the termination is effective on the date of the ruling issued by the hearing officer. If no timely appeal is received, the termination will be effective on the 16th day following the institution's receipt of the Notice of Intent to Terminate.

If a Notice of Immediate Termination is issued based on an imminent threat to the health and safety of participants or to the public, the letter will inform the institution of the ground(s) for termination and the date of termination. The notice will also inform the institution of its right to appeal this action.

Suspension Procedures

If an institution is cited for serious health or safety violations by public health and/or licensing officials, a Notice of Suspension will be issued by the TDHS. In addition, the TDHS may issue a Notice of Suspension for any institution which submits an apparent false or fraudulent claim. All suspension procedures will adhere to the regulation at 7 CFR Part 226.6 (c) (5).

APPEAL PROCEDURES

APPEAL PROCEDURES FOR CHILD AND ADULT CARE INSTITUTIONS AND SPONSORING AGENCIES

Appeal Procedures

1. The TN Department of Human Services (TDHS) must provide administrative review procedures to institutions and responsible principals and responsible individuals as follows:

(a) Annually to all institutions;

(b) To an institution and to each responsible principal and responsible individual when the State agency takes any action subject to an administrative review as described in 7 CFR §226.6(k)(2); and

(c) Any other time upon request.

2. Except as provided at 7 CFR Part 226.6(k)(3) and (k)(9), all institutions and sponsoring agencies may appeal any adverse administrative action taken by the TDHS by requesting a fair hearing to appear in person to refute the action, or by requesting a review of written information in lieu of a fair hearing.

(a) If the adverse administrative action concerns one or more of the circumstances identified at 7 CFR Part 226.6 (k)(3), such actions are not subject to administrative review. The TDHS is prohibited from offering administrative reviews of the following actions:

(i) FNS decisions on claim deadline exceptions and requests for upward adjustments to a claim.

(ii) Determination of serious deficiency.

(iii) State agency determination that corrective action is inadequate.

(iv) Disqualification and placement on State agency list and National disqualified list.

(v) Termination.

(vi) State agency or FNS decision regarding removal from the National disqualified list.

(vii) State agency's refusal to consider an application submitted by an institution or facility on the National disqualified list.

(b) If the adverse administrative action concerns one or more of the circumstances identified at 7 CFR Part 226.6(k)(9), an abbreviated appeal process will be observed and only written information that is submitted by the TDHS and institutions and sponsoring agencies will be reviewed. TDHS must limit the administrative review to a review of written submissions concerning the accuracy of the State agency's determination if the application was denied or the State agency proposes to terminate the institution's agreement because:

(i) The information submitted on the application was false

(ii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list

(iii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program

(iv) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity

3. All appeal requests must be presented in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days after the date the institution or sponsoring agency receives the notice of adverse administrative action.

4. The date of an institution's or sponsoring agency's receipt of a notice of suspension and/or proposed termination and disqualification will be governed by the federal regulation at 7 CFR Part 226.2. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or sent by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

5. The TDHS Division of Appeals and Hearings will acknowledge the receipt of the appeal request within 10 calendar days of the receipt of the institution's or sponsoring agency's request for review. The written request for review should state if a fair hearing is requested or if a review of written information in lieu of a fair hearing is requested. If the appeal request from the institution or sponsoring agency does not specifically request a hearing, a review of written information in lieu of a hearing will occur. If a fair hearing is requested and the institution or sponsoring agency's representative fails to appear, the right to a personal appearance is waived.

6. If an institution or sponsoring agency does not request a fair hearing or a review of written information in lieu of the hearing within 15 calendar days from the date the institution or sponsoring agency receives a Notice of Intent to Terminate, the TDHS will issue a letter advising the institution or sponsoring agency that it is terminated from the CACFP effective on the 16th calendar day following the institution's or sponsoring agency's receipt of the notice, and that the responsible principals and individuals of the institution or sponsoring agency are disqualified from participation.

7. To be considered for a fair hearing or for a review of written information in lieu of a fair hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the notice of adverse administrative action.

8. The action of the TDHS must remain in effect during the administrative review. The effect of this requirement on particular actions by TDHS is as follows:

(i) *Overpayment demand.* During the period of the administrative review, TDHS is prohibited from taking action to collect or offset the overpayment. However TDHS must assess interest beginning with the initial demand for remittance of the overpayment and continuing through the period of administrative review unless the administrative review official overturns the TDHS's action.

(ii) *Recovery of advances.* During the administrative review, TDHS must continue its efforts to recover advances in excess of the claim for reimbursement for the applicable period. The recovery may be through a demand for full repayment or an adjustment of subsequent payments.
(iii) *Program payments.* The availability of Program payments during an administrative review of the denial of a new institution's application, denial of a renewing institution's application, proposed termination of a participating institution's agreement, and suspension of an institution are addressed in paragraphs (c)(1)(iii)(D), (c)(2)(iii)(D), (c)(3)(iii)(D), (c)(5)(i)(D), and (c)(5)(ii)(E), respectively, of 7 CFR §226.6.

9. The institution or sponsoring agency must refute the charges contained in the notice during the fair hearing or in the written information that is provided in lieu of the hearing.

10. The institution or sponsoring agency may retain legal counsel, or may be represented by another person.

11. If a fair hearing is requested, the institution or sponsoring agency will be notified in writing of the time, date and place of the fair hearing at least 10 calendar days in advance.

12. Any information which supports an adverse administrative action taken by the TDHS shall be available to the institution or sponsoring agency for inspection from the date of the receipt of the request for a fair hearing or a review of written information in lieu of the hearing.

13. In accordance with 7 CFR Part 226.6 (k)(8), the TDHS Division of Appeals and Hearings must conduct the administrative review of the proposed disqualification of the responsible principals and responsible individuals as part of the administrative review of the application denial, proposed termination, and/or proposed disqualification of the institution with which the responsible principals or responsible individuals are associated. However, at the administrative review official's discretion, separate administrative reviews may be held if the institution does not request an administrative review or if either the institution or the responsible principal or responsible individual demonstrates that their interests conflict.

14. The procedures contained in the Uniform Administrative Procedures Act found at TCA 4-5-301 et seq. shall be followed in rendering a decision on all appeals. The decision of the hearing officer is the final administrative determination to be afforded to the institution or sponsoring agency, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the request for a fair hearing.

15. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings. They will

monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

16. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office
Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

17. If a termination action is upheld by the hearing officer, the TDHS will issue a letter to the institution or sponsoring agency and its responsible principals and individuals advising that the termination and disqualification are effective on the date of the ruling issued by the hearing officer.

18. As required by the federal regulation at 7 CFR Part 226.6 (c)(7), each disqualified institution, sponsoring agency, principal and individual will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, an institution, sponsoring agency, principal and individual shall remain on the list until such time as the USDA, in consultation with the TDHS, determines that the serious deficiencies that led to their placement on the list have been corrected, or until seven years have elapsed since they were disqualified from participation. However, if the institution, sponsoring agency, principal or individual has failed to repay debts owed under the program, they will remain on the list until the debt has been paid.

APPEAL PROCEDURES FOR CHILD CARE HOMES

Termination/Appeal Procedures:

1. The State agency or the sponsoring organization must provide administrative review procedures to day care homes as follows:
   a) Annually to all day care homes;
   b) To a day care home when the sponsoring organization takes any action subject to an administrative review as described in paragraph (l)(2) of this section; and
   c) Any other time upon request.

2. The Sponsoring Agency will issue a Notice of Intent to Terminate by certified mail, unless immediate termination is warranted based on the actions of the Home Provider which imminently threaten the health and safety of participants or the public. The notice must inform the Home Provider of the ground(s) for proposed termination and disqualification. The notice must also inform the Home Provider of his/her right to request a fair hearing or to request that written information be reviewed by a hearing officer in lieu of a hearing, and that meal payments will not be withheld during the appeal process so long as the appropriate records to support the meal payments are available pending the outcome of the fair hearing.

3. If a letter is issued to immediately suspend a Home Provider for participation and payment cause based on an imminent threat to the health and safety of participants or to the public, the letter must inform the Home Provider of the ground(s) for proposing termination and disqualification and of the date for this action. The notice must also inform the Home Provider of his/her right to request a fair hearing.

4. A request for a fair hearing or for the review of written information in lieu of a hearing must be presented by the Home Provider in writing to the TDHS Division of Appeals and Hearings not later than 15 calendar days from the date the Home Provider receives the termination notice. The TDHS Division of Appeals and Hearings must notify the Home Provider of the receipt of the request within 10 calendar days of the receipt of the request. If the request for a fair hearing or for the review of written information in lieu of a hearing is sent to the Sponsoring Agency, the Sponsoring Agency must forward the request with a photocopy of the Notice of Intent to Terminate Letter and photocopies of any monitoring reports or other related materials to the TDHS Division of Appeals and Hearings immediately upon receipt of the Home Provider's request.

5. All requests for a fair hearing or for a review of written information in lieu of a hearing must be submitted to:

Tennessee Department of Human Services
Division of Appeals and Hearings
PO Box 198996, Clerk's Office

Nashville, TN 37219-8996
Fax: (615) 248-7013 or (866) 355-6136
E-mail: AppealsClerksOffice.DHS@tn.gov

6. If the written appeal request from the Home Provider does not specifically request a hearing, a review of written information in lieu of a hearing will occur. To be considered for a fair hearing or for a review of written information in lieu of a fair hearing, all written documents must be submitted to the TDHS Division of Appeals and Hearings not later than 30 days after receipt of the Notice of Intent to Terminate. If the written documents are submitted to the sponsoring agency, the sponsoring agency will forward the written documents to TDHS Division of Appeals and Hearings immediately upon receipt.

7. The hearing officer shall be designated by the TDHS Division of Appeals and Hearings. If a fair hearing is requested, the TDHS Division of Appeals and Hearings must notify the Home Provider in writing of the date and place of the fair hearing at least 10 calendar days in advance. A copy of the written notice will also be provided by the TDHS Division of Appeals and Hearings to the CACFP program staff of the Tennessee Department of Human Services.

8. The Home Provider must refute the charges contained in the Notice of Intent to Terminate during the fair hearing or in the written information that is submitted in lieu of the hearing.

9. The Home Provider may retain legal counsel, or may be represented by another person.

10. Except in situations that imminently threaten the health and safety of participants or the public and that are identified in the notice of action by the Sponsoring Agency, program payments will not be withheld during the appeal process for the Home Provider. This is providing that appropriate records to support the payments are available and maintained by the Home Provider. If the Home Provider does not request a fair hearing within 15 calendar days from the date the Home Provider receives the proposed termination notice, the Sponsoring Agency will issue a letter advising the Home Provider that it is terminated and disqualified from the CACFP effective on the 16th calendar day following the Home Provider's receipt of the Notice of Intent to Terminate.

11. Any information on which the Sponsoring Agency based its adverse administrative action shall be available to the Home Provider for inspection from the date of the receipt of the appeal request from the Home Provider.

12. The hearing officer must make a determination based on the information provided by the sponsoring organization and the day care home and on Federal and State laws, regulations, polices, and procedures governing the Program in accordance with 7 CFR Part 226.6 (l)(5)(v).

13. The decision of the hearing officer shall be the final administrative determination to be afforded to the Home Provider, and shall be rendered in a timely manner not to exceed 60 calendar days from the date of the receipt of the Home Provider's appeal request by the Sponsoring Agency.

14. The processing limits for administrative appeals MUST be met. In the event a continuance is requested by a party, one continuance may be granted at the Hearing Official's discretion. This continuance shall not be for a period longer than ten (10) calendar days unless there are exceptional circumstances. Exceptional circumstances must be detailed in the order of continuance and the order must contain a date certain for the hearing, to be set as soon as possible. A report of pending CACFP desk review and fair hearing requests will be generated and reviewed daily by the Clerk's Office and the Legal Director for Appeals and Hearings. They will monitor the dates for timeliness. In the event a decision has not been rendered within forty-five (45) calendar days of the date of receipt of the request for fair hearing or desk review, the Legal Director for Appeals and Hearings or their back-up shall notify the hearing official to take appropriate action.

15. If the Notice of Intent to Terminate is upheld by the hearing officer, the Sponsoring Agency will issue a final termination and disqualification notice to the Home Provider. The effective date of the termination and disqualification will be the date of the appeal ruling issued by the hearing officer.

16. As required by the federal regulation at 7 CFR Part 226.6 (c) (7), each disqualified Home Provider will be placed on the National Disqualified List maintained by the U.S. Department of Agriculture (USDA). Once included on the National Disqualified List, a Home Provider shall remain on the list until such time as the TDHS determines in consultation with FNS, that the serious deficiencies that led to the provider's placement on the list have been corrected, or until seven years have elapsed since the provider's agreement was terminated for cause. However, if the Home Provider has failed to repay debts owed under the program, the provider will remain on the list until the debt has been paid.

EXHIBIT 1

SUMMARY OF USDA FINANCIAL INSTRUCTION 796-2, REVISION 3

Introduction

Financial Instruction 796-2, Revision 3 provides financial management information and guidance to state and local institutions in the CACFP. The first Financial Instruction was issued in 1980. Revision 1 was issued in 1983, Revision 2 in 1994, and Revision 3 in 2001.

Need for Latest Revised Instruction

The most recent revision to the Instruction results from changes in: Office of Management and Budget Grant and Cooperative Agreement, Cost Principle and Audit Circulars; Federal Acquisition Regulations 48 CFR Part 31, Contract Cost Principles and Procedures; CACFP legislation and regulations (7 CFR Part 226); and Departmental regulations (7 CFR Parts 3015, 3016, 3019, 3052). Additional changes made to the Instruction reflect the USDA's commitment to improve the integrity of the CACFP through comprehensive guidance.

Purpose of Latest Revision

The Financial Instruction 796-2, Revision 3 establishes standards, principles and guidelines for financial management to:

1. Assure that the costs charged to the non-profit food service are allowable, necessary and reasonable for effective and efficient program operations;

2. Assist state administering agencies and institutions in developing and maintaining financial management systems that comply with CACFP requirements;

3. Provide standard requirements for all institutions of similar type doing the same work; and

4. Document the non-profitability of the CACFP food services.

Questions and Answers for Allowability of Costs

Allowable costs are bona fide obligations of an institution for the necessary and reasonable expenses that result from performing program functions.

1. **What is a bona fide obligation?**

   A bona fide obligation occurs when the institution has a legal obligation to pay for goods or services.

2. **What is the difference between necessary and reasonable?**

The nature of the activity is used to determine if the cost is necessary, while the amount of the cost to perform that activity is used to decide if the cost is reasonable.

3. **Are there additional factors for allowable costs beyond necessary and reasonable?**

Yes. An allowable cost is:

a. Authorized or at least not prohibited by applicable laws, regulations and Instruction 796-2, Revision. 3;

b. A cost of the current program period;

c. Properly allocated; and

d. Adequately documented.

Questions and Answers for Non-Profit Food Service

With the exception of child care homes, all participating facilities in the CACFP must operate a non-profit food service principally for the benefit of its enrolled participants as follows:

1. **What is a non-profit food service?**

Operating a non-profit food service requires that all revenue received or accruing to the food service is restricted and used only for allowable costs. Any revenue in excess of expenses is used only to maintain, expand or improve an institution's non-profit food service for its participants. An institution does not need to lose money or just break even to operate a non-profit food service; nor is a food service non-profit just because it is operated by a public institution or the institution earns the lesser of CACFP rates or cost.

2. **What are the requirements for the different types of institutions?**

All institutions participating in the CACFP must operate a non-profit food service principally for the benefit of its enrolled participants. The institution must meet the non-profit food service requirement when the institution is:

a. An independent child care center;

b. A sponsor of affiliated centers; or

c. A child care home sponsor.

When the institution sponsors unaffiliated centers, the institution is required to assure that these unaffiliated centers operate a non-profit food service. Family day care homes are exempt from the non-profit food service requirement.

3. **Are there other activities that must be considered when determining non-profit food service?**

Yes. When the food service is used for other activities, then the non-profit food service is limited to the food service for the enrolled CACFP participants. Other activities include catering, serving or selling meals to others.

4. **Who identifies the non-profit food service?**

The institution, and DHS share responsibility for identifying the non-profit food service. However, DHS makes the final determination. The institution must describe its food service operations to DHS during the application process and maintain records that accurately reflect the operation of its food service. DHS evaluates the information on the application and uses on-site reviews performed by F&A to assess the scope of the institution's food service activities.

5. **What does F&A review and what actions are performed by DHS with the data verified by the monitors?**

TDHS Program Review personnel examine each institution's food service activities and costs. When the CACFP payments and other revenue exceed expenses, the TDHS requires that the excess revenue be retained and used only in the non-profit food service program.

6. **What are the institution's responsibilities?**

The institution must perform the following:

a. Maintain records identifying all of its food service activities;

b. Retain all non-profit food service revenue in a restricted account;

c. Use the non-profit food service account only for allowable costs;

d. Correct any deficiencies identified by the TDHS; and implement corrective action when TDHS determines **an excessive non-profit food service account balance exists**;

e. Since allowable food costs is to be determined by the net cost of food used and not the cost of all food purchased, food purchases must be reconciled to the cost of the food actually used; and

f. Complete an inventory of non-food supplies and office supplies purchased but not used at the end of the program year.

7. **What is an excessive balance?**

An excessive balance in the non-profit food service is an amount equal to or greater than an average of one month's reimbursement based on the claims paid for the preceding 12 months

An excessive balance can only be used to expand or improve the non-profit food service for the participants and cannot be used for other purposes.

8. **Can an institution be required to maintain a separate bank account for the non-profit food service?**

DHS may require an institution to maintain a separate bank account when a corrective action is needed related to a financial integrity issue.

9. **If an institution purchases items for the non-profit food service using a credit card, and the credit card company gives benefits, such as rebates, for using the card, should these benefits be considered income to the non-profit food service account?**

It depends on who owns the credit card. If credit card is owned by the institution, the rebates or benefits would return to the food service account. If the credit card is owned by an individual, and the by-laws of the institution do not address this issue, the individual would be able to retain the benefits since the individual has the liability for the card.

Questions and Answers for Use of CACFP Payments

All costs which are charged to the CACFP require some form of prior written approval from DHS subject to the following:

1. **Are there any exceptions?**

In emergencies, DHS may grant verbal prior approval.

2. **Are there different types of prior approval?**

Yes. The requirements vary depending on whether the cost is:

a. Generally allowable;

b. Requires prior approval; or

c. Requires specific prior written approval.

3. **What is a generally allowable cost?**

Generally allowable costs occur in the routine operation of the CACFP.

4. **What are the prior approval requirements for generally allowable costs?**

An institution must include these costs in the budget submitted to DHS. These costs are approved through the annual management plan and budget approval process.

5. **What is the difference between a cost that requires prior approval and one that requires specific prior written approval?**

A cost that requires prior approval is an allowable cost but due to either the nature or amount of the cost, written prior approval is required.

Costs requiring specific prior written approval are costs that are not customarily incurred in the routine operation of the CACFP but can sometimes be necessary and reasonable for proper and effective program operations.

6. **What are the requirements for costs requiring prior approval?**

The institution must specifically identify the cost item and amount during the budget submission process. Including the cost as part of a larger entry in a budget line item without identifying the cost item and amount is not sufficient and will not meet the requirement for adequate disclosure. When these cost items and amounts are properly disclosed, approval of the budget meets the requirement for prior approval unless DHS specifically disallows the cost in writing.

7. **What are the requirements for costs requiring specific prior written approval?**

The institution must specifically identify and request approval of these costs during the annual budget approval process or submit a separate request to DHS. Approval of a budget line item does not constitute adequate specific prior written approval for these costs. Whether submitted during the budget approval process or separately, the DHS must approve or deny the requested cost in writing.

8. **Is there a timeframe in which DHS must approve or disapprove an institution's request for specific prior written approval?**

Yes. Since a cost requiring specific prior written approval is an amendment to the institution's budget, the timeframes established at §226.6(b)(10) apply. DHS must approve or deny a complete and correct request within 30 days of receipt.

9. **Can the institution appeal the denial of a cost?**

Yes, when the denial will affect the institution's claim for reimbursement or participation.

10. **What must DHS do when an institution does not request specific prior written approval before incurring the cost?**

The cost must be disallowed.

11. **Does approval of a cost guarantee funding?**

No. Approval of cost is never a guarantee of funding.

12. **Is there a ceiling or limit on the amount of CACFP payments that may be used for eligible administrative costs?**

Yes. The amount of reimbursement payments that can be applied to administrative costs for sponsors of affiliated and unaffiliated centers is the lesser of 15 percent of the total reimbursement payments received or the net allowable administrative costs. The DHS will not approve budgets for sponsors of affiliated and unaffiliated centers which contain administrative costs exceeding 15% of the anticipated reimbursement payments.

13. **Since unaffiliated centers may have some (small amount) of administrative costs, how does this limit apply? Does it only apply to the sponsor's administrative costs, or does it apply to the total of administrative costs, including any charged by the unaffiliated centers?**

The 15 percent limit applies to all administrative expenses charged to the program by either the sponsor or its sponsored centers.

Questions and Answers for Operating and Administrative Costs

Operating costs are limited to allowable expenses of serving meals to eligible participants in approved food service sites. Sponsors of child care homes and unaffiliated child care centers do not have operating costs in Tennessee. These sponsors only have administrative costs under the CACFP. Only independent child care centers and sponsors of affiliated child care centers have operating costs.

1. **What are some examples of operating costs?**

   a. Food;

   b. Food service labor;

c. Non-food supplies; and

d. Food service equipment.

Administrative costs are limited to allowable expenses for planning, organizing and managing the CACFP.

1. **What are some examples of administrative costs?**

a. Salaries, wages and fringe benefits to perform the following responsibilities:

(1) Review and submit applications for program participation;

(2) Review and approve participate income eligibility applications;

(3) Provide nutrition education to food service personnel; and

(4) Conduct CACFP monitoring and training visits to sponsored facilities.

<u>Questions for Direct and Indirect Costs</u>

Costs are either direct or indirect. Due to differences in activities and accounting practices, a cost may be direct in one institution and indirect in another.

1. **What are direct costs?**

Direct costs can be administrative or operating expenses that benefit an institution's non-profit food service. Examples of direct costs include:

a. Salaries and wages of institution personnel who perform responsibilities under the non-profit food service;

b. Depreciation or use allowances on equipment used in the non-profit food service; and

c. Food purchased for use in the non-profit food service.

2. **What are indirect costs?**

Indirect costs are those which have been incurred for common or joint objectives, but cannot be readily identified or assigned to the CACFP food service. Examples of indirect costs include:

a. Depreciation and use allowances on buildings and equipment used for common or joint objectives;

b. Costs of operating and maintaining facilities;

c. Salary of the receptionist; or

d. Salaries of the central accounting personnel.

3. **How is a direct cost that benefits more than one activity assigned?**

When more than one activity benefits from a direct cost, the cost must be allocated. The allocation method assigns a share of the direct cost to each activity based on the benefits received, not the source of funds available to pay for the cost. *The institution must provide DHS with the method it will use to assign these shared costs and DHS must provide specific prior written approval of the allocation method.* For example, DHS must approve the method of allocating or charging a portion of the salary of a center director to the CACFP.

4. **How are indirect costs assigned?**

Indirect costs are assigned through an indirect cost rate.

5. **When does a Federal agency approve an indirect cost rate?**

Federal agency approval is generally limited to public organizations receiving federal funds from more than one source. Federal agency approval is also available on a very limited basis for certain very large private non-profit organizations.

6. **Where can an institution obtain information on how to prepare a CAP?**

The institution must use OMB Circulars A-87 and A-122 and Federal Acquisition Regulations 48 CFR Part 31, as applicable, when developing a cost allocation plan. An institution should contact DHS for additional guidance.

Questions and Answers for Labor Costs

Labor costs include all forms of compensation earned and all forms of payment made either in cash or non-cash for personal services subject to the following:

1. **What is the difference between administrative and operating labor?**

Administrative labor includes planning, organizing and managing the non-profit food service, while operating labor includes the preparation and service of meals to participants.

2. **What is a necessary labor cost?**

A labor cost is necessary when the activity or function:

a. Is generally recognized as ordinary;

b. Is required for the institution to operate the program; and

c. Must be accomplished to fulfill regulatory requirements for proper and efficient operation of the program.

3. **What are the elements or categories of labor costs?**

a. Salaries and Wages;

b. Overtime, Holiday Pay and Compensatory Time;

c. Fringe Benefits;

d. Employment Taxes;

e. Incentive Award Payments; and

f. Severance Pay.

4. **Should all employees performing the same work receive the same level and types of compensation?**

Yes. Except for differences resulting from longevity, employees performing the same work within an institution should receive the same compensation.

5. **Are all payments made to individuals that perform program duties included in labor costs?**

No. Only the payments made to the institution's employees are classified as labor costs. Costs for contracted labor are contract costs.

6. **Are benefits paid only to certain employees allowable?**

The costs can be allowable when:

a. The benefits are provided equally to the same class of employees; and

b. The benefits are paid consistent with the institution's written compensation policy.

7. **What are the documentation requirements for labor costs?**

a. *All CACFP institutions that charge employee salaries or wages to the CACFP must have a written compensation policy.* A written compensation policy must include every element of compensation earned

by an employee. This written policy is to establish the way the employees earn compensation and the way in which the institution will pay that compensation.

At a minimum, the written compensation plan must apply to all employees of an institution and must identify:

(1) Rates of pay;

(2) Hours of work, including breaks and meal periods; and

(3). The institution's policy and payment schedule for regular compensation, overtime, compensatory time, holiday pay, benefits, severance pay and payroll witholding;

b. *All CACFP institutions that charge employee salaries or wages to the CACFP must have time and attendance reports for the employees. The reports must identify the total time actually worked by each employee,and not just the time spent on CACFP activities. The time and attendance reports are required for both part-time and full-time employees.* The reports must be prepared timely and coincide with the employee's pay period. At a minimum, the reports must include the following:

(1) Starting time;

(2) Ending time; and

(3) Absences;

c. *All CACFP institutions that charge employee salaries or wages to the CACFP must have time distribution reports to establish and support the portion of the costs that may be claimed as CACFP labor costs.* The reports must meet the following requirements:

(1) The reports must be completed by all full-time and part-time employees and must account for the total activity for which each employee is compensated;

(2) The portion of the labor costs charged to the CACFP must be prorated based on the hours worked for the CACFP and other non-CACFP activities and based on the hours worked for administrative and operating activities;

(3) A separate report is required for each employee;

(4) The reports must reflect an after-the-fact determination of the actual working activities of each employee;

(5) Budget estimates and time studies of any kind are not acceptable documentation; and

(6) The interval for time distribution reporting is 30 minutes.

d. Time and attendance and time distribution reports must be completed by each employee charged to the CACFP and must be signed and certified as true and correct by the employee and a supervisory official having first hand knowledge of the activities performed by the employee during the period covered by the reports.

e. Payroll records must be maintained for each employee charged to the CACFP. At a minimum, the records must include the following:

(1) Employee name;

(2) Employee identification number;

(3) Rate of pay;

(4) Hours worked;

(5) Benefits earned;

(6) Any reductions or increases to the employee's base compensation, such as overtime pay;

(7) Gross pay;

(8) Net pay;

(9) Date of payment to employee;

(10) Method of payment, such as check or electronic funds transfer; and

(11) Verification that employee has been paid, such as canceled checks or electronic funds transfer deposit verification.

9. **What is compensatory time?**

Compensatory time is paid time off in lieu of paid overtime. Federal and State labor laws exempt certain employees from receiving overtime compensation. Some organizations provide compensatory time for exempt employees.

10. **What resources are available to compare labor compensation costs?**

A variety of resources are available including:

a. U.S. Department of Labor, Bureau of Labor Statistics;

b. State Department of Labor;

c. State & local unemployment commissions;

d. For public institutions, the pay scale for similar occupations; and

e. Classified ads and Internet job sites.

11. **What are the general guidelines for determining allowable labor costs?**

a. Each element of compensation is reasonable in relation to the services provided;

b. The compensation conforms to the institution's written compensation policy;

c. The compensation is for program work performed during the current period; and

d. The compensation is earned and paid to individuals employed by the institution.

12. **What are some examples of allowable fringe benefits?**

a. Paid vacation, military and sick leave;

b. Health and retirement benefits; and

c. Disability and life insurance.

13. **Are family health benefit plan costs allowable?**

a. Yes, to the extent the employee's salary on which the benefits are earned is allowable.

14. **Is the employee's share of employment taxes allowable?**

No, only the employer's share is allowable.

15. **What are allowable forms of incentive awards?**

a. Cash;

b. Additional paid vacation; and

c. Minor value awards such as pins, plants, etc.

16. **When is severance pay allowable?**

When the payment is required by:

a. Law;

b. Written employer-employee agreement; or

c. A labor relations agreement.

17. **Can an institution claim the cost of fringe benefits and incentive awards provided to contractors?**

No. Allowable fringe benefit and incentive award costs are limited to employees.

18. **Are there any other labor costs that are unallowable?**

Yes. Unallowable labor costs also include:

a. Any payment for services or benefits to individuals not employed by the institution, except for certain family health care benefits;

b. Compensation that is inconsistent with the institution's written compensation policy;

c. Retroactive salary or wage increases;

d. Increases solely to maximize available reimbursement;

e. Compensation in any form based on the number of homes recruited;

f. Noncompliance with Federal and State employment compensation or taxation requirements;

g. Compensation in any form to repay debts, overclaims or disallowances; and

h. Labor costs that are not determined and documented in accordance with Generally Accepted Accounting Principles (GAAP) and FNS Instruction 796-2 or the State equivalent.

Questions and Answers for Equipment and Supply Costs

Instead of using depreciation, an institution can be permitted to charge the program for the cost of certain types of equipment at the time the items are purchased. When the cost of equipment is not charged at the time of purchase, the item can be depreciated.

1. **What is the current definition of equipment?**

   Equipment is an item of non-expendable personal property with a useful life of more than 1 year and an acquisition cost of $5,000 or more per unit. When an institution has a more conservative definition for equipment, the institution must use that definition to identify equipment.

2. **How is an item classified if it does not meet this definition?**

   The item is classified as a supply. Supplies are items other than equipment and real property.

3. **Are there any requirements for purchasing supplies?**

   Yes. Durable supplies may be charged to the CACFP at the time of purchase. Durable supplies are supplies that have a life expectancy of more than one year and an acquisition cost of less than $5,000 per unit. Expendable supplies which are actually used within one month or less at the time of purchase may also be charged to the program. When expendable supplies exceed more than one month's usage, the allowable costs are limited to the cost of the items actually used for the program during the month.

4. **What kinds of equipment cannot be charged at the time of the purchase and must be subject to depreciation charges?**

   1. Most equipment purchased by the institution that is used in the CACFP can be charged to the CACFP at the time of purchase, except for the following:

      a. Equipment purchased by individuals;

      b. Donated equipment;

      c. General purpose equipment, including office equipment and furnishings;

      d. Air conditioning equipment;

e. Reproduction and printing equipment;

f. Motor vehicles; and

g. Automated data processing equipment used for both program and general administrative purposes.

5. **Can an institution charge equipment at the time of purchase that is not used 100% for the program?**

Except for automated data processing equipment, the institution can charge the prorated CACFP share of the cost of the equipment. The institution must pay for the non-CACFP share from sources other than the institution's non-profit food service account.

6. **Does charging an item of equipment to the CACFP at the time of purchase require prior approval?**

Yes. Specific prior written approval by DHS is required.

7. Are there other requirements that must be followed when equipment is charged to the program?

Yes. The institution must comply with Federal property management and disposition requirements. Please contact DHS for more information.

8. **Does DHS have the right to disapprove a request to charge equipment to the CACFP at the time of purchase?**

Yes. In these cases, the institution can depreciate the program share of the equipment's cost subject to DHS approval.

9. **How is equipment depreciation computed?**

Depreciation is computed using the useful life and net cost of the equipment. Only the non-federally funded share of the net cost can be depreciated. When the equipment is used for program and non-program purposes, the amount of depreciation must be prorated.

10. **What methods of depreciation can be used?**

The institution can use either a 15 year straight line depreciation method or the method used and accepted for federal income tax reporting purposes. All other methods require specific prior written approval by DHS.

11. **When can a use allowance be taken?**

A use allowance may be taken as an expense for equipment when the item was originally purchased with non-federal funds and after it has been fully depreciated. At that point, the CACFP may take a use allowance based on a calculated method. The maximum use allowance for buildings and improvements is 2 percent. For equipment, it is 6 2/3 percent.

12. **Can an institution remove funds from its non-profit food service account when depreciation is used?**

No. Depreciation is a non-cash transaction. Depreciation is not a contingency or equipment replacement fund. It is a method used to recognize that a benefit has been derived from using an asset supplied by the institution.

Questions and Answers for Rental Costs

Allowable rental costs are the program share of lease fees for space, facilities, vehicles and equipment used in the program. Allowable rental costs are limited in certain lease arrangements.

1. **Are there common requirements for all types of rental situations?**

Yes. The following apply when determining the allowable costs of any rental:

a. A bona fide rental arrangement must exist between the institution and lessor;

b. The rental must be properly procured and the contractual documents must be adequate;

c. Rental costs must be reasonable given the needs of the institution, the program, current market conditions and the type, life expectancy, condition and value of the property or item; and

d. Rental costs must be prorated between program and non-program use.

2. **Can an institution charge a rental fee for space, equipment or vehicles when the item is owned by the institution?**

No, however, the institution can usually charge depreciation.

3. **Can an institution charge depreciation and a lease fee for the same item?**

   No.

4. **Are renovations, rearrangement and alteration costs to rented space allowable?**

   No.

5. **Can the lease fees include other costs?**
   Yes. Reasonable and necessary costs, such as maintenance and custodial costs, can be included in rental fees.

6. **Are rental costs allowed when the lease is between an individual and the lessor?**

   No. The institution must be the lessee.

7. **Is renting space in a private residence allowable?**
   Yes, when a bona fide arms-length rental agreement exists with an independent third party and the program share of the cost is reasonable. An arms-length rental agreement exists when no party to the lease is able to control or substantially influence the actions of the other party.

8. **Can an institution rent from an individual that is an officer, employee or a family member.**

   Yes, but allowable costs are limited and special rules apply to these related party transactions. All costs for related party transactions must receive Specific Prior Written Approval from DHS before they may be charged to the CACFP.

9. **Are the requirements different when an institution rents supplies, such as fax or copy machines?**

   No.

10. **Can an institution charge a mileage fee and a lease fee for the same vehicle?**

    No, but the program share of fuel costs, insurance premiums, routine maintenance, parking and tolls are allowable costs for leased vehicles.

11. **Can an institution permit officers or employees to use rented vehicles for personal use?**

Yes, however, the lease fee must be prorated between program and non-program use. All personal use operating costs and the non-program share of the lease fee, maintenance and insurance costs cannot be charged to the CACFP.

Questions and Answers for Special Leases

Allowable costs are limited in certain rental transactions. Special lease situations can occur in the rental of facilities, equipment and supplies.

1. **What are the characteristics of a special lease?**

   a. Less-than-arms-length;

   b. Material equity lease (capital leases);

   c. Sale with lease back; and

   d. Option to purchase lease.

2. **What is a less-than-arms-length lease?**

   When one party to the lease is able to control or substantially influence the actions of the other party.

3. **What is allowable for rent in a private residence when there is a less-than-arms-length transaction?**

   For space costs of private residences in a less-than-arms length transaction, the costs claimed, including the amount, must meet all IRS requirements for business use of a home and must be supported by the records used to meet IRS requirements for documenting the business use of the home.

4. **What are some examples of less-than-arms length leases?**

   a. Leases between the institution and a director, trustee, officer or employee of the institution;

   b. Leases between the institution and a family member of a director, trustee, officer or employee of the institution;

   c. Leases between divisions of an organization; and

   d. Leases between organizations under common control.

5. **When are organizations under common control?**

   a. Common control occurs when organizations are under the control of the same individual(s) or when the individual(s) hold a controlling interest in both organizations.

6. **What is a material equity lease?**

   When the lessee obtains an ownership interest in the leased item. A material equity is created when:

   a. The lease is non-cancelable or cancelable only upon some remote contingency;

   b. The item must be purchased if the lease is canceled;

   c. The purchase price at the end of the lease term appears to be substantially below probable fair market value;

   d. Title to the item passes to the institution at some time during or after the lease period;

   e. The term of the lease (initial plus any renewals) is equal to 75 percent or more of the economic life of the leased item; or

   f. A specific portion of the lease payment is applied to the purchase price of the item, whether or not the purchase option is exercised.

7. **What is sale with lease back?**

   When an item is sold and then leased back to the seller or an affiliate of the seller. The seller may be an individual or business.

8. **What is an option to purchase lease?**

   This lease does not create a material equity, but does permit the lessor to purchase the item.

9. **What costs are allowable in special lease situations?**

   Except for a lease with option to purchase, allowable costs are limited to the amount that would have been allowed had the institution purchased or continued to own the item on the date the lease was executed. This amount is computed using the acquisition cost (less the value of land for space and facilities) and following straight line depreciation methods:

a. Space and Facilities: 30 years;

b. Equipment, except automobiles and automated data processing (ADP) equipment: 15 years; and

c. Automobiles and ADP equipment: 5 years.

For option to purchase leases, allowable costs are the lesser of:

a. The lease fee;

b. The rental cost without the purchase option; or

c. The cost to purchase the item including financing costs.

10. **What if the lease fee exceeds the allowable amount?**

The excess costs are unallowable. Institutions are not permitted to charge to the program any portion of the rental fee that exceeds the allowable amount.

11. **Must the institution disclose a special lease arrangement to DHS?**

Yes. Special lease arrangements require specific prior written approval. When an institution fails to fully and accurately disclose a special lease, all of the lease costs are unallowable.

Questions and Answers for Participant Support Costs

Participants are independent and sponsored child care centers and family day care homes, but not sponsoring organizations.

1. **What are participant support costs?**

a. Pre and post CACFP approval training for facilities; and

b. Facility fair hearing costs.

2. **What are allowable participant training costs?**

a. **Administrative costs:**

(1) Rental costs for meeting rooms;

(2) Fees for speakers who are not officers, employees, family members, etc.;

(3) Child care services for attending facility personnel;

(4) Costs for meals and nonalcoholic beverages served to participants, but not to guests, when CACFP training is presented concurrent with the meal service; and

(5) Training materials, supplies and incidental expenses.

b. **Child care center operating costs:**

(1) The cost for center employee substitutes when the training is conducted during the facility's established hours of program operations; and

(2) Travel and transportation costs for employees required to attend training.

3. **Are day care home provider travel and transportation costs to attend training allowable?**

No.

4. **Is the cost for substitutes for child care home providers allowable?**

No.

5. **What are other unallowable participant training costs?**

a. Costs for motivational speakers; and

b. Costs of social events, entertainment, flowers, table decorations, alcoholic beverages, door prizes and gifts.

6. **Can a center or home claim meals when substitute care providers are used?**

Yes, when all program requirements are met.

7. **What costs are allowable for appeals?**

Allowable costs can include:

a. In-house or properly procured private counsel;

b. Professional services, such as an accountant, consultant or independent hearing official;

c. Administrative and clerical services, including recording and transcription services; and

d. Costs for properly procured meeting room space.

8. **Are allowable facility appeal costs operating or administrative costs?**

Administrative.

9. **What other participant support costs are allowable?**

None.

<u>Questions and Answers for Travel Costs</u>

Travel costs are expenses for transportation, lodging, subsistence and related costs.

1. **What are transportation costs?**

a. Mileage allowances paid to the traveler;

b. When an institution owns or leases vehicles:

(1) The actual operating costs of the vehicle; and

(2) Depreciation, use allowance or leasing fee; or

(3) The same allowance used by the institution for reporting business vehicle costs for federal tax purposes.

c. Commercial air, train and bus fare; and

d. Public transit costs.

2. **What does a mileage allowance include?**

A mileage allowance is the full amount allowed for the costs of operating a vehicle, excluding the driver's salary, parking and toll fees.

3. **What documentation is required for claiming a mileage allowance?**

a. Date of each trip;

b. Driver's name;

c. Mileage;

d. Origin and destination of each trip;

e. The reason for each trip; and

f. Odometer readings.

4. **Is the cost of commuting to work allowable?**

No.

5. **Do any travel costs require approval by the DHS?**

All travel costs require prior approval.

6. **Does the institution have to approve employee travel costs?**
Yes. A responsible official of the institution must certify in writing that records documenting all travel costs and mileage claimed for program purposes have been reviewed for reasonableness and allowability before claiming the travel and mileage costs.

7. **Is first class airfare allowable?**

No.

Questions and Answers for Required Disclosure of Costs

Some costs require more disclosure than others. The Revised Financial Instruction establishes three cost approval categories based on the amount of disclosure required.

1. **Why do certain costs require more disclosure than others?**

Depending on the circumstances, a cost may be allowable, partially allowable or unallowable. DHS cannot fulfill its regulatory responsibility to approve only allowable costs without the institution providing sufficient information.

2. **What are the obligations of an institution regarding disclosure?**

An institution must provide any additional information requested by DHS to allow an informed decision on the allowability of an institution's budgeted or claimed costs.

3. **Are there certain costs that always require disclosure?**

Yes. Related party transactions, less-than-arms-length transactions, ownership interests in equipment, supplies or facilities and costs requiring special consideration must be disclosed.

4. **What are the penalties for failing to provide adequate disclosure?**

Failing to disclose required information will result in the disallowance of the cost and may subject the institution, its principals, employees and others to the administrative and legal remedies available to DHS and USDA.

5. **What happens when the failure to disclose was unintentional?**

When DHS determines that the failure was not deliberate, the institution may be permitted to claim and retain CACFP funds up to the amount that would have been allowed had full and accurate disclosure been provided. However, the institution can never be permitted to claim unallowable costs, retain program funds earned as a result of claiming unallowable costs or use non-profit food service account funds to pay for unallowable costs.

6. **What are the three approval categories in the Instruction 796-2, Rev. 3?**

a. Generally allowable costs;

b. Costs requiring prior approval; and
c. Costs requiring specific prior written approval.

7. **What costs are generally allowable?**

Generally allowable costs occur in the routine operation of the CACFP.

8. **What costs require prior approval?**

These are costs that, by type or amount, require additional disclosure for DHS to make an informed decision about allowability.

9. **What costs require specific prior written approval?**

These are costs that are not customary in the routine operation of the CACFP but may still be necessary and reasonable in a specific situation.

10. **Are generally allowable costs included in the budget?**

Yes. An institution must still include these costs in the budget submitted to DHS. Approval of the budget results in the approval of these costs.

11. **Can costs requiring prior approval be included in the budget?**

Yes, but the costs must be specifically identified by item and amount.

12. **What are the procedures for specific prior written approval?**

The institution must specifically identify and request approval of these costs before the costs are incurred. The institution's request can be submitted during

the annual budget approval process or separately. DHS must approve or deny these specific requests in writing.

13. **What is a cost requiring special consideration?**

Special consideration exists whenever a transaction lacks independence or the integrity of the transaction could be compromised. When a special consideration exists, specific prior written approval is required.

14. **What are some examples of special consideration?**

a. All less-than-arms-length transactions;

b. Compensation to members of non-profit institutions' trustees, directors, associates, officers or their immediate families; and

c. All special lease arrangements.

Questions and Answers for Program Income

All income to the program must be retained and used in the institution's non-profit food service account.

1. **Are there different categories of income to the program?**

Institutions must account for two different categories of income to the program: program income and other income.

2. **What is program income?**

Program income is the gross income earned from activities supported by the program. When the institution's non-profit food service includes all of its food service activities, program income is generated by the operation of any aspect of that food service. When the institution's program food service is limited to the CACFP, program income is limited to the income that results from operating the CACFP. If an institution incurs costs to produce the program income but does not charge these costs to the program, these costs may be subtracted from gross income to determine net program income.

3. **What are some examples of program income?**

a. Participant payments for meals served by institutions that operate pricing programs;

b. Payments received from food sales to adults;

c. Revenue from non-program operations when a separation of program and non-program food service is not appropriate;

d. Proceeds from the disposition of real and non-expendable personal property acquired with USDA funds; and

e. Royalties and other income earned from the sale or licensing of copyrighted work developed under the program. Examples include license fees for software developed to prepare program claims for reimbursements, gross income from the sale of cookbooks for use in the program, training materials and rental fees or income from videos developed with program funds.

4. **What is other income?**

Other income includes other funds that result from program operations or are applied to program operations.

5. **What are some examples of other income?**

a. Cash donations specifically earmarked for use in the program food service.

b. Cash that is not earmarked but used in the non-profit food service, except certain loans and internal transfers;

c. Interest earned on CACFP funds (reimbursement, advance administrative, meals service and facility pass-through funds) that can be retained by the institution;

d. Funds committed by the institution to the program;

e. Funds received for program food service activities from any other federal, state, intermediate or local government source; and

f. Funds received from the sale of unused or unneeded supplies purchased with program funds.

6. **Are there any funds that are always excluded as income to the program?**

Yes. The following is never classified as program or other income:

a. Internal transfers of funds pursuant to the institution's funds management policy, to meet cash flow needs;

b. Bona fide third party short term loans to meet cash flow needs;

c. Revenues raised by a public recipient under its governing powers, such as taxes, special assessment, levies and fines unless specifically raised for use in the institution's program food service; and

d. Interest earned on CACFP advance funds that must be returned.

7. **How is income to the program to be treated when determining non-profit food service?**

In all cases, income to the program must be used to reduce the amount of CACFP program costs. For example, if the institution spent $1,000 and also collected $100 in program income, then the institution's net expenses would be $900.

Specifically, program and other income can only be used for allowable program purposes by:

a. Deducting the income from CACFP costs in center programs reimbursed on the basis of the lesser of meals times rates or cost;

b. Deducting the income from CACFP child care home sponsor administrative costs to determine net reimbursable administrative costs; and

c. Deducting the income from allowable program food service account expenses in centers reimbursed using the rate based method when determining if the institution is operating a non-profit food service account.

Questions and Answers for Interest, Fees and Charges in Lieu of Interest

Interest, fees and charges in lieu of interest can be incurred, as well as earned, on program and non-program activities. Institutions, in securing loans or other debt instruments, may be required to provide collateral.

1. **Can institutions retain interest earned on CACFP funds?**

Institutions may earn and retain interest on advance and reimbursement funds; however, the following rules apply:

a. Public institutions:

(1) May retain up to $100 in interest earned annually on advance funds; and

(2) Any interest earned in excess of $100 must be remitted to the USDA through the DHS.

b. Private Non-profit institutions:

(1) May retain up to $250 in interest earned annually on advance funds; and

(2) Any interest earned in excess of $250 must be remitted to:Department of Health and Human Services (DHHS) Payment Management System, Box 6021, Rockville, Maryland 20852

c. All institutions:

(1) May retain interest earned on reimbursements and pass-through funds to sponsored facilities.

2. **Can an institution use retained interest to repay an overclaim?**

No. An overclaim is an unallowable cost. All interest retained by an institution is income to the program. As income to the program, the funds must accrue to the non-profit food service. Non-profit food service funds can not be used to pay for unallowable costs.

3. **Are interest charges on loans an allowable cost?**

The interest is allowable when the institution obtains a bona-fide third party loan and uses the proceeds to acquire or replace program equipment, other program property or make program improvements.

4. **Is all interest on loans allowable?**

No. Unallowable interest expenses include:

a. Interest in excess of the actual interest paid;

b. Interest for any debt the institution is not legally obligated to pay;

c. Interest on debt used to acquire unallowable equipment or other property;

d. Interest on borrowed capital or the temporary use of endowment funds;

f. Interest for reacquiring equipment or other property held by the institution or a related party;

g. Credit card interest debt;

h. Costs for failure to pay debt timely;

i. Fees and charges in lieu of unallowable interest;

j All interest and principal when a less-than arms-length financing arrangement was not fully and accurately disclosed to the TDHS and USDA; and

k. In less-than-arms-length transactions, interest expense in excess of the fair market rate available to the organization from an unrelated third party.

5. **Can an institution use its non-profit food service resources as collateral to secure a loan?**

The following non-profit food service resources can be used:

a. Administrative cost reimbursement payments;

b. Reimbursement payments for centers owned and operated as part of the institution; and

c. Equipment and other assets that have no current federally funded interest.

The following non-profit food service resources cannot be used:

a. All advance funds received by home sponsors;

b. Reimbursement payments for sponsored centers not owned by the institution and for all family day care homes;

c. Equipment or other assets having a federal interest; and

d. Any non-profit food service account asset when:

(1) The loan, in whole or in part, is for non-CACFP purposes;

(2) The loan is made to an officer, director or employee; and

(3) The lender is not a bona fide third party lending agency.

Questions and Answers for Legal Costs

Special situations and general day-to-day operations can result in an institution incurring legal expenses. In some cases, these legal costs are allowable, while in others, the costs are unallowable.

1. **What types of legal costs are allowable?**

With specific prior written approval of DHS, costs of the following legal services, when performed by persons who not officers or employees of the institution, are usually allowable:

a. The sponsoring organization's cost to pursue recovery of funds from sponsored facilities; and

b. The costs of services required in the administration of the CACFP.

2. **Are CACFP administrative review costs allowable?**

Yes. The institution's costs for administrative reviews pursued pursuant to the CACFP regulations are generally allowable.

3. **What are some examples of allowable administrative review costs?**

a. Costs for in-house or properly procured private counsel;

b. Costs for professional services, such as an accountant or consultant, administrative and clerical services; and

c. Costs of directly related services provided by the institution's employees, officers and trustees as long as these costs are not also claimed as labor or other costs.

4. **Is the institution's costs of seeking a judicial review of a State hearing official's decision allowable?**

No, unless the institution prevails. In that case, recovery is usually limited to 80% of the institution's necessary and reasonable expenses.

5. **Are the institution's costs for defending itself against claims and lawsuits initiated by employees, ex-employees or facilities allowable?**

Generally, the costs are allowable when the institution's actions result from complying with CACFP requirements. However, the costs are not allowable when the institution has violated statutory or regulatory requirements.

6. **What are some examples of unallowable legal costs?**

a. The costs of prosecuting claims against the federal government, however represented;

b. The cost of maintaining a legal staff to discharge general responsibilities;

c. The costs of legal services for organization and reorganization;

d. Fines, penalties, restitution, back pay awards and damage awards; and

e. All costs before, during and after commencement of judicial or administrative proceedings, excluding administrative reviews provided by the CACFP regulations, when the proceeding is initiated by a government agency and relates to a violation of, or failure of the institution, its agents or employees to comply with a statute or regulation.

7. **What are "all costs?"**

All costs includes administrative and clerical costs, costs of legal services, professional services other costs of the institution, its employees, officers, directors and trustees.

8. **Can an institution claim legal costs if it prevails in a proceeding commenced by a government agency?**

Yes, but allowable costs are generally limited to 80% of the institution's necessary and reasonable expenses**.**

9. **When can an institution claim legal costs for proceedings commenced by a government agency?**

Payment of these costs must generally be withheld until after resolution of the proceedings. However, the costs may be claimed and conditional payment made with specific written approval of USDA.

10. **Is specific prior written approval always required to claim any legal costs?**

Yes.