



Food and
Nutrition
Service

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Park Office
Center

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Alexandria
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SUBJECT: National School Lunch Program and School Breakfast Program:
Questions and Answers for Charter Schools

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) along with other Child Nutrition Programs (CNPs) administered by the USDA Food and Nutrition Service (FNS) make it possible for schools to serve wholesome and appealing meals to students each day. FNS recognizes the importance of providing the necessary technical assistance to all schools eligible to participate in the CNPs so that all students have access to school meals that contribute to their physical and mental well-being. To assist in this effort, FNS is providing updated Question and Answers (Q&As) to address questions we have received from charter schools. This memorandum supersedes SP 07-2008: *Charter School Involvement in the National School Lunch and Breakfast Programs*, January 15, 2008.

Charter schools have cited challenges to participating in the CNPs including a lack of equipment, limited access to kitchen and cafeteria facilities, and the inability to establish reliable administrative systems to receive reimbursements for eligible students. However, these challenges should not prohibit charter schools from offering school meals to students through the CNPs. Federal, State, and local administrators should encourage charter schools to leverage the Federal funding available to support school-based CNPs.

Since charter schools are held to the same standards for operating CNPs as traditional public or non-profit private schools, this memorandum does not contain any new CNP policies. Program operators can use the Q&As as an additional resource to assist charter schools and non-profit private, rural, or small schools that have similar questions to operate successful CNPs. These schools are encouraged to find comprehensive information about the CNPs on the FNS website: <https://www.fns.usda.gov/school-meals/child-nutrition-programs> and in the Eligibility Manual for School Meals: <https://www.fns.usda.gov/eligibility-manual-school-meals>.

Regional Directors

State Directors

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State agencies are reminded to distribute this memorandum to Program operators. Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate FNS Regional Office.

A handwritten signature in dark ink, appearing to read "Angela Kline". The signature is written in a cursive style with a large initial "A" and a stylized "K".

Angela Kline

Director

Policy and Program Development Division

Attachment

CHARTER SCHOOL QUESTIONS AND ANSWERS

FEDERAL CHILD NUTRITION PROGRAMS

1. What Federal Child Nutrition Programs (CNP) are available to charter schools?

Charter schools may participate as sponsors of CNPs as long as they meet the definition of public schools, as determined by State law and as recognized by the State educational system, per Section 9(d)(5) of the *Richard B. Russell National School Lunch Act*, 42 USC 1760(d)(5), Section 15(3) of the *Child Nutrition Act of 1966*, 42 USC 1784(3), and program regulations at 7 CFR 210.2 (NSLP) and 7 CFR 220.2 (SBP).

The National School Lunch Program (NSLP) and School Breakfast Program (SBP) are the most well-known school-based, Federal Child Nutrition Programs (CNP). All of the CNPs are administered at the State level by State agencies, and help fight hunger and obesity by reimbursing organizations, schools, childcare centers, and after-school programs for providing nutritious meals and snacks to children. Additional information on each of these CNPs is provided below.

- **National School Lunch Program (NSLP) and School Breakfast Program (SBP):** The NSLP and SBP are federally assisted meal programs operating in public and nonprofit private schools and residential child care institutions (RCCIs) that provide nutritionally balanced, low-cost or free breakfasts and lunches to eligible children each school day. For more information, please visit: <https://www.fns.usda.gov/nslp/national-school-lunch-program-nslp> and <https://www.fns.usda.gov/sbp/school-breakfast-program-sbp>.

School food authorities (SFAs) have the option of serving afterschool snacks through the NSLP. In addition, SFAs currently administering the NSLP and/or SBP can provide breakfast, lunch, snack, and supper during the summer months through the Seamless Summer Option (SSO) of the NSLP. For more information about these options, please visit these websites: <https://www.fns.usda.gov/school-meals/afterschool-snacks> and <https://www.fns.usda.gov/school-meals/opportunity-schools>

- **Fresh Fruit and Vegetable Program (FFVP):** The FFVP provides participating elementary schools between \$50 and \$75 per student per school year to purchase additional fruits and vegetables to be served outside of the NSLP and SBP. Elementary schools with high-need students fill out an application to determine their eligibility to participate in the FFVP. For more information, please visit: <https://www.fns.usda.gov/ffvp/fresh-fruit-and-vegetable-program>

- **Special Milk Program (SMP):** The SMP provides milk to children in schools and childcare institutions that do not participate in other CNPs. The SMP reimburses schools and childcare institutions for milk served. Schools in the NSLP or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs where children do not have access to the NSLP or SBP. For more information, please visit: <https://www.fns.usda.gov/smp/special-milk-program>.
- **Child and Adult Care Food Program (CACFP):** The At-Risk Afterschool Meals Component of CACFP provides funding to afterschool programs that serve a meal and/or snacks to children and teens in low-income areas. For more information, please visit: <https://www.fns.usda.gov/cacfp/child-and-adult-care-food-program>.
- **Summer Food Service Program (SFSP):** The SFSP reimburses providers who serve free nutritious meals to children and teens in low-income areas during the summer months when school is not in session. Schools that have the ability to manage a food service program may be SFSP sponsors and enter into agreements with State agencies to run the SFSP. For more information, please visit: <https://www.fns.usda.gov/sfsp/summer-food-service-program>.
- **Farm to School Program (F2S):** The F2S helps CNP operators incorporate local foods into their menus. A F2S regional lead is available to provide F2S support through grants, training and technical assistance in their region. For more information about F2S, including a list of regional contacts, please visit: <https://www.fns.usda.gov/farmtoschool/farm-school>.
- **Farm to Summer Program:** Schools and nonprofit sponsors offering USDA's Summer Meal Programs can capitalize on the many opportunities that summer brings to serve fresh, local foods and hands-on activities that help children develop healthy habits. For more information, please visit: <https://www.fns.usda.gov/farmtoschool/farm-summer>.

CHILD NUTRITION PROGRAM ELIGIBILITY

2. **If a charter school initially serves grades kindergarten through third, and then adds subsequent grade levels with each new school year, does that affect the school's ability to participate in the CNPs?**

No, schools serving children through grade 12 may participate in the NSLP and SBP. Adding or subtracting grades does not affect a school's eligibility to participate in CNPs. However, the meal pattern requirements vary by grade to meet the specific nutrient needs of the children being served. Additional information on meal pattern requirements for schools is available at: <https://www.fns.usda.gov/school-meals/nutrition-standards-school-meals> and for the

CACFP at <https://www.fns.usda.gov/cacfp/meals-and-snacks>. The State agency/SFA must update the agreement to reflect any grades (or sites) that are added.

ADMINISTRATION AND OPERATIONS

3. How do charter schools differ from traditional public schools?

In lieu of adhering to the standard education requirements for traditional public schools, charter schools operate under an individual charter, or contract, with a public body, generally a State or local board of education. These charters stipulate how the school must operate and how well the students will perform. The charter is granted from an authorizer such as a school district, State Department of Education, or independent authorizing board. The charter school operates with an independent board of directors that may include community, civic and business leaders, and parents. The board of directors legally oversees the operation of the school and holds the agreements and contracts with State entities on behalf of the charter school.

4. What is an SFA? Can a charter school be its own SFA?

A School Food Authority (SFA) is the governing body responsible for the administration of one or more schools. It is also the entity that has the legal authority to operate the School Meal Programs or be otherwise approved by FNS to operate the programs (7 CFR 210.2). An SFA must enter into an agreement with the State administering agency to operate the CNPs. Requirements for the agreement can be found at 7 CFR 210.9.

A charter school may participate as an SFA and sign its own agreement with the State agency or participate as part of another SFA. Operating the School Meal Programs as part of another SFA can streamline responsibilities involved in administering the programs. While it is the charter school board of directors that signs the agreement with the State agency to operate the NSLP and SBP, we generally refer to “charter school” rather than “the board of directors” in the Q&As, with the understanding that the charter school operates in conjunction with the board of directors as the legal authority.

5. Could a charter school enter into an agreement with another SFA to assist with Program administration?

Yes, a charter school may enter into an agreement with another SFA. Under such an agreement, the other SFA could assume responsibility for various program services, such as determining and verifying eligibility, providing meals, and counting and claiming meals. However, even if the charter school enters into such an agreement, the charter school holds the agreement with the State agency and is ultimately responsible for ensuring that the programs are administered according to all statutory

and regulatory requirements. Charter school-SFA agreements may include various provisions and clearly identify the rules and responsibilities of each party. SFAs are allowed to join in such intergovernmental agreements to foster greater efficiency (see 2 CFR 200.318(e) and Memoranda SP-05-2017, CACFP 03-2017, SFSP 02-2017). The following are two examples of what may be included in an agreement.

- An SFA provides meals to a charter school. The charter school is responsible for all other aspects of program operations, including certifying household applications for free or reduced price meals, verifying applications, and counting and claiming meals. The charter school is responsible for maintaining all required paperwork to demonstrate compliance such as, production records, copies of the household applications, meal counts and claims for reimbursement, food labels, and recipes.
- A charter school has an agreement with another SFA for virtually all aspects of program operations, such as determining and verifying eligibility, providing meals, and counting and claiming meals. In this arrangement, the charter school must have ready access to records that demonstrate program compliance.

6. What administrative duties are associated with participating in the School Meal Programs?

A comprehensive list and description of administrative requirements can be found at 7 CFR 210, 220, 245, and 250. Administrative duties at the SFA level include the following:

- Determine student eligibility for free or reduced price school meals (7 CFR 245.6);
- Serve school meals that meet the nutrition standards during the meal period (7 CFR 210.10; 7 CFR 220.8);
- Count the number of reimbursable meals served by type (free, reduced price, paid) at the point of service (7 CFR 210.7(c)(2));
- Maintain a financial management system to account for revenues and expenditures of the nonprofit food service (7 CFR 210.14);
- Meet Federal reporting and recordkeeping requirements (7 CFR 210.15); and,
- Maintain proper sanitation and health standards in conformance with all applicable State and local laws and regulations and Federal statutory requirements (7 CFR 210.13).

Charter schools should contact their State agency for more information and technical assistance. State agency contact information is available on the FNS website: <https://www.fns.usda.gov/school-meals/school-meals-contacts>. Charter schools can competitively procure consultants or contractors to perform some (or all) aspects of program administration.

7. If a charter school uses a charter management organization (CMO) also referred to as an education service provider (ESP), to manage and operate the charter school, can the CMO be responsible for the SFA's administrative responsibilities?

It is FNS' understanding that CMOs are for-profit or nonprofit organizations that contract with individual schools to deliver management services. When a CMO is contracted to manage any aspect of the charter school's food service, it is considered a food service management company (FSMC) (7 CFR 210.2). Like all SFAs that contract with a FSMC, the charter school must follow Federal procurement requirements in 7 CFR 210.21 and 2 CFR 200.318-.326 to solicit bids/proposals to contract with this entity. The charter school must include in the solicitation and contract specific SFA responsibilities found in 7 CFR 210.16(a), FSMC responsibilities found in 7 CFR 210.16(c) and (d), and USDA Foods requirements in 7 CFR 250.50-.54 (Subpart D). If the SFA uses a cost-reimbursable contract, the contract must include required provisions in 7 CFR 210.21 and the audit provision found in the 2016 *Food Service Management Company Handbook for SFAs*. These requirements can be found at the following website:
<https://www.fns.usda.gov/updated-guidance-contracting-food-service-management>.

However, if a CMO does not manage any aspect of the charter school's meal service, then the charter school/board of directors is permitted to assign its administrative responsibilities to the CMO, which then essentially functions as the SFA. This determination may be based on the recognition that the board, which is comprised of parents/guardians, and other professionals are board of director members in the fiduciary sense, rather than administrators, and thus the school would be better served by allowing the CMO to assume the administrative functions. This means the board could assign to the CMO eligibility, verification, and all other responsibilities for which the SFA is responsible. Such responsibilities may also include competitively procuring the services of a FSMC as specified in the requirements above. Assigning the administrative responsibilities to a CMO does not mean that the charter school abdicates or transfers its responsibility to ensure all program requirements are met; the charter school is still responsible for having all required paperwork on file, such as production records, copies of the household applications, meal counts, claims for reimbursement, food labels and recipes, documentation of all procurement processes for assessing compliance with procurement standards identified above, and oversight of the FSMC.

8. Does the CMO sign the CNP agreement with the State agency?

The charter school board of directors is responsible for ensuring all program requirements are met and signs the agreement with the State administering agency.

9. If the CMO administers charter schools in multiple States, can the CMO conduct eligibility, verification and other functions at a location outside the jurisdiction where the charter is held?

Yes, as long as doing so does not cause an inconvenience or act as an impediment to families applying for benefits, or cause required records to be unavailable for review at any time by a State.

10. What is a charter school collaborative (CSC)? Does a CSC meet the definition of SFA for the purpose of participating in School Meal Programs?

A CSC is a legal entity separate from the contracting charter schools that may be authorized to provide a function, service, or facility for contracting charter schools. Questions about an entity's eligibility to participate in the School Meal Programs should be directed to the appropriate State agency.

Ultimately, State agencies are responsible for determining if an entity meets the criteria for participation in the School Meal Programs. In determining the eligibility of a CSC to be an SFA, the State agency must determine if State law permits a CSC to act as an SFA consistent with provisions of the *Richard B. Russell National School Lunch Act* (42 USC 1751) and the definition for an SFA (7 CFR 210.2). The State agency is responsible for confirming that the CSC contract (with charter schools in the collaborative) includes a provision enabling the CSC to act as a SFA consistent with the regulatory definition and State law.

REQUIREMENTS FOR SCHOOL MEAL PROGRAMS

11. What are important considerations for charter schools interested in participating in the NSLP and SBP?

Charter schools have cited various challenges in meeting requirements for the School Meal Programs. There are solutions to these challenges and State agencies are available to provide the training, technical assistance, and resources that charter school need to provide access to nutritious meals through the School Meal Programs. Charter schools experiencing these or other challenges should contact their State agency. State agency contact information is available on the FNS website: <https://www.fns.usda.gov/school-meals/school-meals-contacts>. Challenges that charter schools have communicated include:

- Access to kitchen facilities or need to retrofit non-traditional facilities to accommodate meal service;
- Contracting for food services with third-party providers, including school districts;
- Adequate staffing available to administer the programs;

- Establishing reliable administrative systems to receive reimbursements, including electronic point of sale devices and meal benefit application systems; and,
- Recruiting and hiring staff with experience in School Meal Programs.

12. Can a charter school participate in the School Meal Programs if it does not have an on-site kitchen?

Yes, a kitchen is not required to participate in the School Meal Programs. Schools with minimum facilities can arrange to have meals provided. Schools can partner with another SFA or competitively procure meals from a third-party provider to participate in the School Meal Programs.

A school can also contract with a FSMC. When partnering with a FSMC, a school must procure services properly (i.e., competitive procurement) as specified at 7 CFR 210.21, 220.16 and 2 CFR 200.318-326. State agencies can provide further information on the procurement process. State agencies provide schools with training and technical assistance to help school food service staff prepare nutritious meals and meet Federal requirements. To find out more about the procurement process for the School Meal Programs please visit: <http://www.theicn.org/>. Other resources include the following FNS procurement information:

- Market Basket Analysis when Procuring Program Goods and Modifying Contracted-For Product Lists: <https://www.fns.usda.gov/market-basket-analysis-when-procuring-program-goods-and-modifying-contracted-product-lists>
- Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program: <https://www.fns.usda.gov/school-meals/compliance-enforcement-buy-american>
- Guidance on Competitive Procurement Standards for Program Operators: <https://www.fns.usda.gov/guidance-competitive-procurement-standards-program-operators>
- Questions and Answers on the Transition to and Implementation of 2 CFR Part 200: <https://www.fns.usda.gov/questions-and-answers-transition-and-implementation-2-cfr-part-200>

13. What if a charter school wants to provide students with free school meals? Can they still participate in the School Meal Programs?

Yes, schools are not required to charge students for school meals to participate in the School Meal Programs. However, schools are limited to the allowable reimbursement rates based on student eligibility for free, reduced price, or paid school meals.

Additionally, if a school does not charge students for meals, non-Federal funds may be required to repay the nonprofit school food service account to cover the cost of

meals. Federal reimbursements received for school lunches may not be used to offset the cost of meals served to students who do not meet the eligibility criteria for free and reduced price meals (7 CFR 210.14(e)(5)(ii). Regulations found at 7 CFR 210.14(e) and Memorandum SP11-2017v2 address the “paid lunch equity” (PLE) requirements by providing calculation procedures for SFAs to ensure sufficient, allowable funds are provided to the nonprofit school food service account to cover meals served to students ineligible for free or reduced price meals.

14. What is direct certification and what are the requirements for direct certification in the CNPs?

Direct certification is the process conducted by State agencies and Local Educational Agencies (LEAs) to certify eligible children for free meals without the need for household applications. Free meal benefits through direct certification are established through systems which match student enrollment lists against Supplemental Nutrition Assistance Program (SNAP) agency records and the records of other assistance agencies whose participants are categorically eligible for free meals, including the Temporary Assistance for Needy Families (TANF) Program, the Food Distribution Program on Indian Reservations (FDPIR), the Head Start Program, and children that are homeless, migrant, runaway, or a foster child.

LEAs are required to directly certify children from households that receive SNAP benefits, and conduct direct certification matching activities with SNAP data at least three times per year: once at or around the start of the school year, and again three and six months after that initial effort. However, LEAs are encouraged to conduct matching activities more frequently to increase the opportunity to identify children in a timely manner.

Benefits of direct certification include increased program access, reduced burden for families and LEAs, increased reimbursement for LEAs, and improved program integrity. Additionally, the administrative savings through direct certification allow school districts the opportunity to focus more resources towards improving meal quality and service.

15. What are the Special Provision Options in the School Meal Programs?

In an effort to reduce paperwork and administrative burden, special provision options are available as an alternative for schools with a significant number of low-income students. Information on Special Provisions can be found at the following website: <https://www.fns.usda.gov/school-meals/provisions-1-2-and-3>.

16. What is the Community Eligibility Provision?

The Community Eligibility Provision (CEP) is the most recent special provision permitted by law. Schools are eligible to implement CEP if they satisfy the following requirements:

- Meet a minimum level of 40 percent of “identified students” certified for free meals in the prior school year without the use of school meal applications (for example, students directly certified through SNAP);
- Participate in both the NSLP and SBP;
- Serve free lunches and breakfasts to all students during the 4-year cycle;
- Count total reimbursable breakfasts and total lunches served daily;
- Do not collect school meal applications from households; and
- Cover with non-Federal funds any costs of providing free meals to all students above amounts provided by Federal reimbursements.

New charter schools that meet the eligibility criteria above are required to elect CEP by June 30 in order to participate in CEP during the following school year. If the number of identified students and enrollment are not available, the new school must wait until the numbers of identified students and total enrollment are available to determine eligibility to elect CEP.

Charter schools should contact their State agency if they are interested in participating in CEP or in learning more about the other special provision options. To learn more about the CEP and other provisions, please visit: <https://www.fns.usda.gov/school-meals/community-eligibility-provision>.

17. What are the reimbursement rates for participating schools?

SFAs are reimbursed for meals based on children’s free, reduced price, or paid eligibility status. To see the latest NSLP reimbursement rates, please visit: <http://www.fns.usda.gov/school-meals/rates-reimbursement>. Certain schools and SFAs are eligible for higher reimbursement rates:

- Schools serving a higher percentage of low-income children (at least 60 percent of children receive free or reduced price lunch) are considered “severe need” and are eligible for a higher reimbursement rate.
- Schools in Alaska, Hawaii, and Puerto Rico are eligible for a higher reimbursement rate, due to the higher cost of food in those areas.
- SFAs that are certified to be in compliance with the program meal pattern receive an additional 6 cents for each lunch served.

18. May school meal reimbursements go directly to the contractor versus going to the SFA then to the contracting vendor?

No, State agencies reimburse SFAs directly for school meals; the SFA is the responsible entity that holds the agreement with the State agency as explained in 7 CFR 210.7. SFAs submit a monthly reimbursement claim based on the number of free, reduced price, and paid meals served. After the State agency reviews the claim, reimbursement is issued to the SFA usually within four to six weeks.

TECHNICAL ASSISTANCE AND RESOURCES

19. Where can a charter school get more information about CNPs and how to meet the unique challenges charter schools may face?

Charter schools considering participation in the CNPs should contact their State agency responsible for administering the CNPs. At the State level, the CNPs are administered by State education or agriculture agencies, which operate the programs through agreements with local school districts. State agency contact information can be found at:

<https://www.fns.usda.gov/school-meals/school-meals-contacts>.

State agencies must conduct trainings and provide technical assistance at least annually on all aspects of operating the School Meal Programs. Charter schools are strongly encouraged to participate in the State agency training sessions. Trainings typically address a variety of topics, including the following administrative practices:

- Application, certification, verification, meal counting, and meal claiming procedures;
- The accuracy of approvals for free and reduced price meals;
- The identification of reimbursable meals at the point of service;
- Nutrition, health, and food safety standards;
- The efficient and effective use of USDA Foods; and,
- Any other appropriate topics to ensure Program compliance and integrity.

20. What resources are available for charter schools interested in finding out more about the School Meal Programs?

Charter schools are encouraged to review the following resources to learn more about operating the School Meal Programs:

- School Meal Programs Technical Assistance and Guidance Memos: <https://www.fns.usda.gov/school-meals/guidance-and-resources>
- United States Department of Education Charter School Homepage: <https://www2.ed.gov/about/offices/list/oii/csp/index.html?exp=2>
- Institute of Child Nutrition: <http://www.theicn.org/>
- Child and Adult Care Food Program: <https://www.fns.usda.gov/cacfp/child-and-adult-care-food-program>