



State of New Jersey

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DEPARTMENT OF AGRICULTURE
DIVISION OF FOOD AND NUTRITION
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Secretary

SCHOOL NUTRITION PROGRAMS SCHOOL FOOD AUTHORITY (SFA) AGREEMENT

In order to accomplish the purposes of the National School Lunch Act, the Child Nutrition Act of 1966, the regulations and instructions governing the National School Lunch Program, School Breakfast Program, After School Snack Program, and Special Milk Programs issued thereunder, the New Jersey State Department of Agriculture, hereinafter referred to as the "Department," and the school or school district whose name and address appear on the agreement certification, hereinafter referred to as the "SFA" for School Food Authority, contract and agree to the following:

THAT THE DEPARTMENT AND SFA SHALL UNDERSTAND, FOR THE PURPOSES OF THIS AGREEMENT:

I. THE FOLLOWING TERMS SHALL BE CONSTRUED TO MEAN:

- A. After School Snack:** A meal served to students during after school care programs which meet the nutritional requirements, specified in 7CFR §210.10(a) (ii).
- B. Breakfast:** A meal served to students during the morning hours. The meal shall be at or close to the beginning of the school day, be located at school, and must meet the nutritional requirements specified in 7CFR §220.8.
- C. Fiscal Year:** A period of twelve calendar months beginning on October 1 of any calendar year and ending on September 30 of the following calendar year.
- D. School Year:** A period of twelve calendar months beginning July 1 of any year and ending June 30 of the following year.
- E. Free Meal:** A meal for which neither the child nor any member of their family pays or is required to work in exchange for the meal.
- F. Local Wellness Policy:** A Policy to be implemented by each SFA which includes, at a minimum, all required components as stated in the Local Wellness Policy Requirements (III. K of this Agreement).
- G. Lunch:** A meal which meets nutritional requirements specified in 7CFR §210.10.
- H. Milk:** Milk which meets the standards in Section 202 of the Healthy, Hunger-Free Kids Act for fluid types of white or flavored low fat or non-fat milk, including nutritionally equivalent milk alternatives.
- I. Non-Pricing:** A system that does not establish a separate charge for meals, snacks, or milk served to students. This shall include any such program in which students are normally provided meals, snacks, or milk in a school or child care institution financed by tuition, boarding, or other fee, or by private donations or endorsements.
- J. Nonprofit Food or Milk Service:** Food or milk service maintained by or on behalf of the SFA for the benefit of children. All of the income accrued by the SFA is used solely for the operation or improvement of such food or milk service.
- K. Nonpublic School (Nonprofit):** An elementary or secondary school approved by the NJDOE in the state, other than a public school, organized and operated not for profit, offering education for

grades preschool through 12, or any combination thereof, wherein a child may legally fulfill compulsory school attendance requirements; or a public or nonprofit, private, licensed residential childcare institution not limited to group homes, orphanages and juvenile detention centers. All nonpublic schools and residential childcare institutions must be tax exempt under Section 501 (c)3 of the Internal Revenue Code of 1954.

- L. Pricing:** A system of collecting a separate charge for meals, snacks, or milk served to students that are not included in any tuition or boarding fee. Maximum prices shall be established by the Department and prices for full paid lunches must comply with federal Paid Lunch Equity requirements.
- M. Reduced Price Meals or Snacks:** A meal or snack that meets all of the following criteria:
 - 1. Students who qualify for reduced price meals shall not be charged for breakfast or lunch meals per New Jersey Statutes Law.
 - 2. Neither the student nor any member of their family shall be required to supply an equivalent in work.
- N. School Food Authority (SFA):** The governing body which is responsible for the administration of one or more schools/sites and which has the legal authority to operate a school food service program therein or be otherwise approved by FNS to operate a program.
- O. Verification:** Annual process describing the confirmation of income information provided on the School Meals and Summer EBT Application.
- P. Meal Charge Policy:** A policy to be developed, implemented and communicated to households that addresses how each SFA handles unpaid meal charges. This policy must be communicated to all households at the start of each school year and to households that transfer into the school during the school year.

II. THAT THE DEPARTMENT SHALL:

To the extent of funds available, reimburse the SFA for the National School Lunch Program, School Breakfast Program, After School Snack Program or Special Milk Programs in the schools/sites listed on the Schedule A, and made a part hereof, in any fiscal year during which this Agreement is in effect. The amount of reimbursement for each program on behalf of any school/site shall not exceed:

A. National School Lunch Program

The total amount equal to the number of lunches served to students multiplied by the rate of reimbursement assigned by the Department.

B. School Breakfast Program

The total amount equal to the number of breakfasts served to students multiplied by the rate of reimbursement assigned by the Department.

C. After School Snack Program

The total amount equal to the number of snacks served to students multiplied by the rate of reimbursement assigned by the Department.

D. Special Milk Programs

The amount equal to the number of half pints of fluid milk served to students multiplied by the rate of reimbursement assigned by the Department.

III. THAT THE SFA SHALL:

A. Application Packet

- 1. Submit and certify the annual application packet by September 30 of each year to the Division of Food and Nutrition, School Nutrition Programs. This may include the Letter to Parent, Certification of the Agreement and Policy for Free and Reduced Price School Meals, Certification for Local Wellness/Nutrition Policy, Certification for Public Announcement, Systems for Award Management (SAM) Registration, HHFKA Attestation, Civil Rights Attestation, and the submission of required documents, as applicable.

2. Complete an annual Consolidation Agreement with any sites listed on the Site Details that are not part of the SFA, but for whom the SFA agrees to take responsibility for the School Nutrition Programs.
3. Keep all data current and updated throughout the school year in the web-based school nutrition programs system (SNEARS). Additions or deletions throughout the year will require approval from the Department.

B. National School Lunch Program (NLSP)

1. Abide by all state and federal regulations and instructions governing the operation of the National School Lunch Program for all participating schools under its jurisdiction.
2. Serve lunches that meet the nutritional requirements of the National School Lunch Program meal pattern under 7 CFR §210.10 during periods designated by the school/site.
3. Make the National School Lunch Program available to all students regardless of eligibility status and encourage maximum participation.
4. Serve free meals to eligible students according to 7 CFR Part 245.
5. Serve meals free of cost to eligible students qualifying for the New Jersey Expanded Income Eligibility State Supplement according to N.J.S.A. 18A:33-4.
6. Serve lunch between the hours of 10:00 a.m. and 2:00 p.m.
7. Make maximum use of the reimbursement payments in order to support the service of nutritious lunches to all students.
8. Plan for and prepare lunches on the basis of participation trends with the objective of providing one meal per child per day. In no event shall the SFA claim reimbursement for lunches served in excess of one reimbursable lunch per child per day.
9. Make potable water available to students at no charge in the place where lunch meals are served during the meal service.
10. Complete the attestation of compliance with the meal pattern requirement and the USDA menu worksheet to receive the additional eight cents performance-based reimbursement funds.
11. Develop a meal charge policy and provide written notification of this policy to all households at the start of each school year, and to households that transfer to the school during the school year.

C. School Breakfast Program (SBP)

1. Abide by all state and federal regulations and instructions governing the operation of the School Breakfast Program for all participating schools under its jurisdiction.
2. Serve breakfasts which meet the nutritional requirements for a school breakfast under 7 CFR §220.8. The meal shall be at or close to the beginning of the child's day, but before 10:00 a.m., and take place at the school/site.
3. Make the School Breakfast Program available to all students regardless of eligibility status and encourage maximum participation.
4. Serve free breakfasts to eligible students according to 7 CFR Part 245.
5. Serve meals free of cost to eligible students qualifying for the New Jersey Expanded Income Eligibility State Supplement according to N.J.S.A. 18A:33-4.
6. Encourage maximum participation in the School Breakfast Program and inform eligible families of the availability of the School Breakfast program with the Application packets provided to households at the beginning of the school year and multiple times throughout the year.
7. Submit a "breakfast improvement plan", if applicable, by November 1 of each year in accordance with N.J.A.C. 2:36-1.6.
8. Make maximum use of the reimbursement payments to support the service of nutritious breakfasts to all students.
9. Plan for and prepare breakfasts on the basis of participation trends with the objective of providing one meal per child per day.
10. Make potable water available to students at no charge when breakfast is served in the

cafeteria.

11. Develop a meal charge policy and provide written notification of this policy to all households at the start of each school year and to households that transfer to the school during the school year.
12. Establish a "Breakfast After the Bell" program if 70% or more of the students enrolled in the SFA are eligible for free or reduced price meals.

D. After School Snack Program (ASSP)

1. Abide by all state and federal regulations and instructions governing the operation of the After School Snack Program for all participating schools under its jurisdiction.
2. Serve snacks which meet the nutritional requirements of the After School Snack meal pattern under 7 CFR §210.10(a)(ii) to all students participating in after school care programs that incorporate student enrichment or educational activities designated by the school/site.
3. Serve free or reduced price snacks to eligible students according to 7CFR Part 245.
4. Make maximum use of the reimbursement payments in order to provide nutritious snacks.
5. In "area eligible" locations, serve free snacks to all students and claim all snacks served at the free rate of reimbursement. "Area eligible" is defined as being located in an area served by a school in which at least fifty percent (50%) of the students enrolled are certified for free or reduced price school meals. SFAs must obtain prior approval from the Department for "area eligible" status before implementation.
6. Claim all snacks served that are not "area eligible" at the free, reduced price or paid rate, depending on the eligibility status of the child receiving the snack.
7. Prepare snacks with the objective of providing one snack per child per day. In no event shall the SFA claim reimbursement for snacks served in excess of one reimbursable snack per child per day.
8. For SFAs who are not area eligible, develop a meal charge policy and provide written notification of this policy to all households at the start of each school year and to households that transfer to the school during the school year. If charging for meals, the charge for a reduced-price meal supplement shall not exceed \$0.15 per meal supplement.

E. Special Milk Programs (SMP)

1. Operate the Special Milk Programs only in a school/site that does not participate in the National School Lunch or School Breakfast Program. Exception: Operate the program only for split-session kindergarten, pre-kindergarten and other pre-primary students that do not have access to any school meals in a school/site participating in the National School Lunch or School Breakfast Programs.
2. Make the maximum use of the reimbursement payments in order to reduce the price of milk to students as a means of encouraging participation and consumption of fluid milk by students.
3. Purchase milk pursuant to New Jersey statutes, including, but not limited to, N.J.S.A 18A:18A-6.
4. Decide whether to provide free milk to eligible students in the schools or sites under its SFA. Schools/sites that provide free milk must make it available to students based on eligibility.

F. USDA Foods

1. Enter into an agreement with the Department to receive donated USDA Foods as required by 7CFR Part 250 and have acceptable policies and procedures in place to safeguard and utilize donated USDA Foods in School Meals Programs in accordance with 7 CFR §2104.14(d).
2. Accept and use, in as large a quantity as can be efficiently utilized in the school food service program, such foods as may be offered as a donation by the United States Department of Agriculture.

G. Price of Food and Beverage Items

1. Price the school breakfast, lunch or snack as a unit. Set the price of students' meals or snacks so that they do not exceed the maximum prices established annually by the Department.
2. Set paid lunch price according to the Paid Lunch Equity requirements of Section 205 of the 2010 Healthy, Hunger-Free Kids Act and 7 CFR §210.14(e). Use the USDA *Paid Lunch Equity Tool*

annually to evaluate the need for a paid lunch price increase, to increase the paid lunch price in accordance with the regulation, and to submit to the Department the most frequently paid lunch price information for the previous year. Ensure that the tool and supporting documentation are saved electronically from year to year.

3. Set the price of all nonprogram foods to cover all nonprogram food costs. In addition, price the adult meals to cover the cost of those meals.

H. Competitive Food Service/Smart Snacks

1. Ensure that all income derived from the sale of food and beverage items within a school/site during hours when the School Nutrition Programs are in operation accrues to the School Nutrition Programs' account.
2. SFAs must comply with USDA Smart Snacks Regulations under 7CFR §210.11 for all a la carte food and beverages sold on the school campus from midnight to thirty minutes after the school day.
3. Fundraising during the school day must meet the Smart Snacks standards. Exemptions are not allowed.

I. Local Wellness Requirements

1. Wellness policies must include goals for nutrition promotion and education, physical activity, and school-based activities that promote student wellness. SFAs must review and consider evidenced-based strategies in determining these goals.
2. Include standards and nutrition guidelines for all foods and beverages sold to students on the school campus during the school day that are consistent with Federal regulations for school meal standards and the Smart Snacks in School nutrition standards.
3. Include standards for all foods and beverages provided, but not sold, to students during the school day.
4. Include policies for food and beverage marketing that allow marketing and advertising of only those foods and beverages that meet the Smart Snacks in School nutrition standards.
5. Include a description of public involvement, public updates, policy leadership, and evaluation plan.
6. Encourage participation by the general public and the school community (including parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, and school administrators) in the wellness policy process. Establish a wellness policy leadership of one or more SFA and/or school official(s) who have the authority and responsibility to ensure each school complies with the policy.
7. Assess the wellness policy annually to determine: compliance with the policy, how the wellness policy compares to model wellness policies, and progress made in attaining the goals of the wellness policy.
8. Make the wellness policy and assessment available to the public on an annual basis.
9. Complete, submit, and certify the Certification for Local Wellness Policy Implementation and Evaluation to the Department.

J. Nonprofit Requirement

1. Operate a nonprofit school food service program or milk program, conduct a year-end review of total revenues and expenses of the school food service program to determine a nonprofit status, and use all income solely for food service or milk program purposes. Such income shall not be used to purchase land or to acquire or construct buildings.
2. Limit the net cash resources of the school food service program or the special milk program to no more than three months' average expenditures.
3. Meet the requirements in 7 CFR §210.19(a) including any separation of records for nonprofit school service records from the records of any other food service which may be operated by the SFA as provided in 7 CFR §210.14.
4. Use the *USDA Nonprogram Food Revenue Tool* to ensure that the proportion of total revenue from the sale of nonprogram foods to total revenue of the school food service account must be

equal to or greater than: 1.) the proportion of total food costs associated with obtaining nonprogram foods to 2.) the total costs associated with obtaining program and nonprogram foods from the account. Ensure that all such revenue accrues to the nonprofit school food service account. Ensure that the Tool and supporting documentation are saved electronically on an annual basis and are available for review.

5. Comply with allowable cost restrictions, limiting expenses of nonprofit school food service funds to those costs that are necessary, reasonable and allowable in accord with 2 CFR Part 200. Do not charge indirect costs to the Nonprofit school foodservice account at a rate which exceeds the indirect costs rate provided by NJDOE or NJDA. Such indirect costs must be charged in accordance with 2CFR Part 200.
6. Comply with the financial management requirements at 7 CFR Part 3015 and 2 CFR Part 200, as applicable.

K. Reimbursement Claims

1. Claim reimbursement at assigned rates for federal free, federal reduced, federal paid eligible and federal paid/NJEIE eligible students only for meals, snacks or milk served to students at the point of service that meet the nutritional standards. In no event shall the SFA claim reimbursement for free or reduced price meals served in excess of one reimbursable lunch, snack, and/or breakfast per child per day.
2. Electronically submit claims for reimbursement within 10 days following the calendar month of operation for which the claim is made. Federal regulations prohibit the payment of claims received after 60 days following the month of operation.
3. Designate personnel to perform on-line submission of reimbursement claims per guidelines below:
 - a. The "certifier" will be the individual responsible for certifying the accuracy of the data (as entered by the submitter) on the reimbursement voucher. For all public SFAs, this individual MUST be the Board Secretary/Business Administrator. For all nonpublic SFAs, this individual is the Executive Director or Principal.
 - b. The "alternate certifier" is the individual assigned as an alternate to act on behalf of the Certifier when that person is not able to certify. The alternate certifier must be authorized to sign contracts or other legal documents on behalf of the SFA.
 - c. The "submitter" is the individual responsible for entering reimbursement voucher data including participation statistics and meal counts on a site-by-site basis. For both public and nonpublic SFAs, the submitter can be the Food Service Director. SFAs who contract with a food service management company may allow the company's designee to prepare and enter the data as the submitter.
 - d. The "alternate submitter" is the individual assigned as the alternate to the "submitter" when that person cannot submit.
4. Acknowledge that failure to submit accurate claims will result in the recovery by the Department of an overclaim and may result in the withholding of payments, suspension or termination of the program as specified in 7CFR §§210.24 and 210.25.
5. Acknowledge that if failure to submit accurate claims reflects embezzlement, willful misapplication of funds, theft, or fraudulent activity, the penalties specified in 7CFR §210.26 shall apply.

L. Procurement

1. The SFA shall adopt a Procurement Procedure for SFAs and Code of Conduct for Procurement and ensure that all procurement transactions for any purchases by the SFA and/or a food service management company (FSMC) in a Cost-Reimbursable contract shall be conducted in a manner that provides maximum full and open competition in accordance with all Federal regulations, including, but not limited to, 7 CFR 210, 220, 225, 226, 245, 250; 2 CFR 200.318-200.326; State procurement statutes and administrative codes and regulations; local SFA/Board of Education

procurement policies; and any other applicable State and Local laws.

M. Records

1. Maintain full and accurate records pertaining to the school food service meal, snack, and/or milk programs, and retain such records for a period of three years after the end of the fiscal year to which they pertain except if audit findings have not been resolved. If findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.
2. Maintain the required statistical information for each school/site operation on a school-by-school or site-by-site basis.
3. Grant the New Jersey Department of Agriculture, the New Jersey Department of Education, the United States Department of Agriculture, the Inspectors General, the Comptroller General of the United States and its State counterparts, or any of their duly authorized representatives, access to any books, documents, papers, and other records for the purpose of making audit, examination, excerpts and transcripts; and shall provide timely and reasonable access to personnel for the purpose of interview and discussion related to such documents.
4. Keep full and accurate records, by calendar month, of the meal, snack, or milk programs as a basis for the claim for reimbursement and for audit review purposes including:
 - a. National School Lunch Program
 - 1) Edit Checks/Statistics
Maintain daily number of lunches served by school/site to students eligible for federal free, federal reduced price, or federal paid meals and compare to the number of students eligible for federal free, federal reduced price, and federal paid meals, respectively, times the attendance factor. The SFA will also maintain the daily number of lunches served to students eligible for the New Jersey Expanded Income Eligible State Supplement.
 - 2) Program income (Revenue) from: students' payments, state and federal school lunch reimbursement, food sales to adults and all other sources, including loans to program, subsidies from the SFA, any interest accrued from food service interest bearing accounts, and any rebates.
 - 3) Reimbursable and non-reimbursable program costs (Supported by invoices, receipts, or other evidence of expenditure) for food, labor, and all other expenditures, including repayment of loans to the program and fees paid to management companies.
 - 4) Dated menus and production records of actual lunches served.
 - 5) Offer versus serve policy for reimbursable meals that allows students to decline a certain number of food components in the meal in order to reduce plate waste and food cost.
 - b. School Breakfast Program
 - 1) Edit Checks/Statistics
Maintain daily number of breakfasts served by school/site to students eligible for federal free, federal reduced price, or federal paid meals and compare to the number of students eligible for federal free, federal reduced price, and federal paid meals, respectively, times the attendance factor. The SFA will also maintain the daily number of breakfasts served to students eligible for the New Jersey Expanded Income Eligible State Supplement.
 - 2) Program income (Revenue) from: students' payments, federal reimbursement, food sales to adults and all other sources, including loans to program, subsidies from the SFA, any interest accrued from food service interest bearing accounts, and any rebates.
 - 3) Program costs (Supported by invoices, receipts, or other evidence of expenditure) for food, labor, and all other costs related to the breakfast program, including fees paid to management companies.
 - 4) Dated menus and production records of actual breakfasts served.
 - 5) Offer versus serve policy for reimbursable meals that allows students to decline a certain number of food components in the meal in order to reduce plate waste and food cost.

c. After School Snack Program

1) Statistics

- a. Daily number of snacks served to students eligible for free, reduced price, or paid snacks.
- 2) Program income (Revenue) from: students' payments, federal reimbursement, food sales to adults and all other sources, including loans to program, subsidies from the SFA, any interest accrued from food service interest bearing accounts, and any rebates.
- 3) Program costs (Supported by invoices, receipts or other evidence of expenditure) for food, labor, and all other costs related to the afterschool snack program, including fees paid to management companies.
- 4) Dated menus and production records of actual snacks served.

d. Special Milk Program

1) Statistics

- a. Daily number of half pints served to students.
- b. Daily number of half pints served free to eligible students, if school provides free milk.
- 2) Program income (Revenue) from: students' payments, federal reimbursement, food sales to adults and all other sources, including loans to program, subsidies from the SFA, any interest accrued from food service interest bearing accounts, and any rebates.
- 3) Program costs (Supported by invoices, receipts, or other evidence of expenditure) for milk and all other expenditures related to the milk program.

N. Accountability Requirements

1. Base all claims for reimbursable meals or milk on daily counts, taken at the "point of service," which identifies the number of meals, snacks, or milk served by reimbursement category. "Point of service" is defined as that point in the food service operation where a determination can accurately be made (at the time and place the meal, snack, or milk is served) that a reimbursable free, reduced price, or paid meal, snack, or milk has been served to an eligible student.
2. Perform local level review of schools and claims, per the requirements stated below:
 - a. National School Lunch Program & School Breakfast Program
 - 1) Every school year, each SFA shall perform at least one on-site review of each school/site under its jurisdiction before February 1st of each school year. If this review discloses problems with a school's/site's meal counting or claiming procedure, the SFA shall: (1) ensure that the school/site develops and implements a corrective action plan; and (2) within 45 calendar days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problem. Each on-site review shall ensure that the school's/site's claim is based on the counting system authorized in the Policy for Free and Reduced Price Meals and this Agreement with the Department and that this system, as implemented, yields the actual number of reimbursable free, reduced price, and paid lunches served for each day of operation.
 - 2) Prior to submission of a monthly claim for reimbursement, each SFA shall compare each school's/site's daily claim against data, which will assist in the identification and correction of the claims in excess of the number of reimbursable federal free, federal reduced price, and federal paid breakfasts and lunches actually served that day to students eligible for such meals. Such data shall, at a minimum, include the number of students currently approved for free and reduced price breakfasts and lunches in that school, and, for every month except September, the average daily number of free, reduced price, and paid breakfasts and lunches served for the preceding month. SFAs shall also compare claims against any other data available, such as the school's average daily attendance (ADA), enrollment, and an attendance factor. SFAs shall maintain, on file, all of the above data used in the claims review process by school.

b. After School Snack Program (ASSP)

- 1) Every school year, each SFA of the After School Snack Program shall perform two on-site reviews per year of each after school care program. The first on-site review shall be made during the first four weeks that the after school care program is in operation.

O. Audit Requirements

1. NJ OMB Circular 15-08 requires audits of recipients in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and State Policy, or a financial statement audit performed in accordance with government Auditing Standards (Yellow Book) depending on the amount of funds expended. Auditors will follow the Federal Compliance Supplement (Department of Agriculture) for the Child Nutrition cluster. The district's independent auditor should refer to DOE's published guidance for the fiscal year of the SFA. The district will submit the audit in a timely manner according to State law.

P. Facilities/Health and Sanitation/HACCP Requirements

1. Maintain a written food safety plan and necessary facilities for storing, preparing, and serving food.
2. Maintain, in the storage, preparation, and service of food proper sanitation and health practices that meet the standards of the current sanitation code established by the New Jersey State Department of Health and all applicable state and local health laws and regulations. Maintain facilities to safeguard against theft, spoilage, and other loss.
3. Obtain two (2) food safety inspections during each school year from the appropriate governing New Jersey Department of Health and/or local governmental agency responsible for food safety inspections and ensure that the most recent food safety inspection report is posted in a publicly visible location as required by 7 CFR §210.13 (b).
4. Maintain a food safety program based on traditional Hazard Analysis and Critical Control Point (HACCP) Food Safety System as required by 7 CFR §210.13(c) and maintain temperature records or logs for a period of six months in accord with 7 CFR §210.15(b)(5).

Q. Drug Free Workplace

1. Comply with the regulations of the Drug Free Workplace Act of 1988, 41 U.S.C. 81.

R. Civil Rights Assurance

1. Make no discrimination against any child in the operation of Child Nutrition Programs because of race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity conducted or funded by USDA.
2. Assure the United States Department of Agriculture and the Department that the SFA now complies with and shall in the future comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 NS 42; and USDA-FNS directives and guidelines, to the effect that, no person shall, on the grounds of, race, color, national origin, sex (including gender identity and sexual orientation), age, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the SFA receives Federal financial assistance from USDA-FNS: and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement. By accepting this assurance, the SFA agrees to compile data, maintain records, and submit reports, as required, to permit effective enforcement of the nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, Food and Nutrition Services, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the SFA, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from the USDA and/or the

Department. The person or persons designated as the Certifier or Alternate Certifier make this assurance on behalf of the SFA.

3. Collect on an annual basis racial/ethnic data of applicants for free and reduced price benefits on a school by school basis, and maintain on file for three years the racial/ethnic breakdown of applicants for free and reduced price benefits on a school-by-school basis.
4. Agree to the following non-discrimination statement and the use of the following statement in any School Nutrition Program documents or materials for the Programs it participates in:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
2. **fax:**
(202) 690-7442; or
3. **email:**
program.intake@usda.gov.

This institution is an equal opportunity provider."

5. Have procedures in place for receiving and processing any complaints, written or verbal, alleging discrimination in any of the School Meal Programs, in the current or prior school year, and forward copies of these complaints to the address or e-mail listed above.
6. Have procedures in place for accommodating students with special dietary needs in accordance with 7 CFR 15(b), 7 CFR §210.10(m) (1), (2), 7 CFR §220.8(d) (1) and 7CFR §220.8(d) (2) and FNS guidance, *Policy Memorandum on Modifications to Accommodate Disabilities in the School*

Meals Program and Accommodating Disabilities in the School Meal Program: Guidance and Q&As.

7. Conduct civil rights training annually for personnel who interact with program applicants or participants, such as cafeteria staff, free and reduced price application approval staff and their supervisors, and establish and maintain documentation that indicates the civil rights training occurred and that the required participants attended. Documentation must indicate that the following areas were covered: Collection and Use of Data, Effective Public Notification Systems, Complaint Procedures, Compliance Review Techniques, Resolution of Noncompliance, Requirements for Reasonable Accommodations of Persons with Disabilities, Requirements for Language Assistance, Conflict Resolution, and Customer Service.
8. The "And Justice for All" poster must be displayed in a prominent place at the service delivery point. Program participants must be able to read the text without obstruction. The size of the poster must be 11" x 17". Acceptable places to display the poster are: by the cashier, the beginning of the service line, over the milk cooler, and at the exit or entrance of the cafeteria.
9. Have a system in place to identify the language needs of Limited English Proficient (LEP) Households, and ensure that their applications and other household materials (letters, applications, instructions, notices, and verification materials) are available in a language that LEP households can understand.

S. Menus

1. Comply with meal pattern requirements in daily and weekly minimum portion sizes for each age/grade group.
2. Display, at the start of each serving line and in each serving area, such as classrooms, information on the daily menu choices, and identify the food items composing the reimbursable lunch and breakfast.
3. Keep on file dated menus and production records for meals actually served along with other records for review and/or audit purposes for a period of three years from the close of the fiscal year to which they pertain. If audit findings have not been resolved, the records shall be retained beyond the three-year period for as long as required for the resolution of the issues raised by the audit.

T. Professional Standards

1. Ensure that Food Service Directors hired after July 1, 2015 meet the minimum hiring and training standards specified in 7 CFR §210.30, and that Food Service Directors are trained in food safety every five years.
2. Provide sufficient training to all school nutrition employees to meet minimum training standards as specified in 7 CFR §210.30. Maintain and track all training provided.

U. Food Service Management Company (FSMC) or Commercial Vendor

Food Service Management Company

1. Remain responsible for compliance with all aspects of this Agreement if the SFA contracts with a food service management company.
2. Procure base year contracts only from FSMCs currently registered with the New Jersey Department of Agriculture
3. Use the State Agency developed RFP/Contract or Renewal. For SFAs procuring a base year contract, submit the completed State Agency RFP for approval before advertisement. Submit contract and renewal documents annually by May 30th in order to receive final approval before the contract/renewal start date of July 1.
4. All awarded Base Year and Renewal Contracts must be submitted through the Electronic Contract Approval System (ECAS) for State Agency review and approval.
5. Follow all requirements specified in 7 CFR §210.16 and 210.21, Parts 200.318 – 326 and all applicable New Jersey Statutes.
6. Ensure that any USDA Foods received by the SFA and made available to the FSMC or a processor accrue only to the benefit of the school food service program and are utilized therein

and have acceptable policies and procedures in place to safeguard and utilize USDA Foods in School Meals Programs in accordance with 7 CFR §210.14(d).

7. Grant the SFA, the New Jersey Department of Education, the New Jersey Department of Agriculture, the United States Department of Agriculture, the Comptroller General of the United States and its State counterparts, or any of their duly authorized representatives, access to any books, documents, papers, and records of the FSMC which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts and transcriptions. [7 CFR 3016.36(i) (10)].
8. Retain all records required or necessary under this contract for a period of three years from the date of final payment hereunder; except that if any audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit. [7 CFR 210.23(c) and 3016.36(i) (11)].
9. Maintain all documentation related to products, transactions, or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request. [N.J.A.C. 17:44-2.2(b)].
10. Establish an advisory board composed of parents, teachers, and students that meet periodically during the school year to assist in menu planning in schools that contract with a FSMC.

Commercial Vendor

1. Remain responsible for compliance with all aspects of this Agreement if the SFA contracts with a commercial vendor.
2. For SFAs procuring a base year contract, use the State Agency developed RFP/IFB/RFQ. Submit the completed State Agency RFP/IFB/RFQ for approval before advertisement or solicitation of quotes. Submit contract and renewal and all supporting required documents annually by May 30th in order to receive final approval before the contract/renewal start date of July 1.
3. All awarded Base Year and Renewal Contracts must be submitted through the Electronic Contract Approval System (ECAS) for State Agency review and approval.
4. Follow all requirements in 7 CFR §210.16 and all applicable New Jersey Statutes.
5. Procure base year contracts and renew only with Commercial Vendors currently registered with the New Jersey Department of Agriculture.
6. SFAs must only contract with vendors who have NJ business registration and the required licenses/certifications.
7. SFAs may not forward USDA Foods to a commercial vendor or private packager.
8. Provide records relating to vended meals as needed, including but not limited to, the following: delivery slips, recipes, nutrition fact labels, manufacturers product formulation statements and/or child nutrition (CN) labels for all items served as a part of the reimbursable vended meals.
9. Grant representatives of the SFA, the Department, the USDA and the U.S. General Accounting Office access to any of its books, documents, papers, and records directly pertinent to the contract for the purpose of making audit, examination, excerpts and transcriptions. The vendor will retain all required records for a period of three (3) years after the SFA makes final payment under the contract and all other pending matters are closed.
10. Maintain all books and records pertaining to the school food service program on the property of the school district.

V. Nonpublic SFAs

Shall also agree to the general terms and conditions of this agreement, shall be recognized as a school by the NJ Department of Education, and shall have non-profit designation from the federal government per an IRS 501(c)(3) letter of determination.

W. Community Eligibility Provision (CEP) Sponsors

The CEP sponsor shall agree to all the terms of the School Food Authority (SFA) Agreement except they shall:

1. The LEA, group of schools, or school must have an identified student percentage of at least 25 percent, as of April 1* of the school year prior to participating in CEP. Individual schools participating in a group may have less than 25 percent identified students, provided that the average identified student percentage for the group is at least 25 percent.
2. Serve, count, and claim all students in the participating school(s) breakfasts and lunches at no cost, for the length of their CEP cycle, not to exceed four successive years, and must notify the public the availability of school meals at no cost in the participating school(s).
3. Collect School Meals and Summer EBT Applications solely for the purpose of Summer EBT Eligibility and for NJDOE Collection/State Funding purposes. School Meals and Summer EBT Applications must not be used for meal price determination from households.
4. Compare each school's/site's daily free count against the number of students currently enrolled who have access to the National School Lunch and School Breakfast Programs and the attendance factor prior to submission of a monthly claim for reimbursement.
5. Maintain a daily total count of breakfasts and lunches at the point of service by site.
6. Pay, from sources other than Federal funds, the costs of serving breakfasts and lunches that are in excess of the Federal assistance received, including Federal cash reimbursement.
7. Manage and maintain groups and cycles on an annual basis in order to establish optimal claiming percentages, if applicable.
8. Maintain all records as specified in 7 CFR 245.9(h)(3) for the entire duration CEP is in effect, plus three additional years after the date of submission of the final Claim for Reimbursement for the last fiscal year of CEP, or longer if there are audit findings and until resolution of those findings.
9. Abide by all requirements for applying and administering CEP as stated in 7 CFR 245.9(f)-(l).

X. SUMMER EBT

1. Provide student demographic and meal eligibility information for every enrolled student with access to meals in the district according to the prescribed schedule. For the purpose of Summer EBT eligibility, enrolled students means students who are enrolled in and attending schools participating in the NSLP and/or SBP and who have access to at least one meal service (breakfast or lunch) daily
2. Accept and process School Meals and Summer EBT Applications throughout the school year.

Y. AT-RISK AFTERSCHOOL MEAL PROGRAM SPONSORS

1. SFAs participating in the Child and Adult Care Food Program (CACFP) At-Risk Afterschool Meals Program to provide dinner meals and/or afterschool snacks shall abide by all state and federal regulations (7 CFR Part 226) and instructions governing the operation of the At-Risk Afterschool Meals Program for all participating schools under its jurisdiction.

IV. THAT THE DEPARTMENT AND THE SFA SHALL:

- A. Mutually agree that this Agreement may be terminated upon thirty days' written notice on the part of either party hereto, and the Department may terminate this Agreement immediately after receipt of evidence that the SFA has not fully complied with the terms and conditions of this Agreement. Any termination will follow 7 CFR §210.18 and the State appeal procedures. Any termination of this Agreement for noncompliance with Title VI of the Civil Rights Act of 1964 shall be in accordance with applicable laws and regulations.
- B. Mutually agree that the terms of this Agreement shall not be modified or changed in any way other than by the consent, in writing, of all parties hereto.
- C. Mutually agree that failure to abide by the terms of this Agreement may cause reimbursement to be withheld or forfeited until full compliance has been verified by the Department.

SCHOOL NUTRITION PROGRAMS SCHOOL FOOD AUTHORITY (SFA) POLICY FOR FREE AND REDUCED PRICE MEALS

In consideration of the reimbursement received for meals, snacks, and/or milk served in accordance with the National School Lunch Program, the School Breakfast Program, the After School Snack Programs and/or the Special Milk Program and in order to receive USDA Foods donated by the United States Department of Agriculture (USDA), this School Food Authority (SFA) assures the New Jersey Department of Agriculture (Department) that it will observe the following policies with respect to determining students eligible for free and reduced price meals, snacks, and/or milk in schools, camps, and residential child care institutions (RCCI), as well as when collecting payments and counting meals.

THE SFA AGREES TO:

1. Serve meals and snacks free or at a reduced price and/or milk free to students from households whose income is at or below the federal income eligibility guidelines established by the USDA or to students who receive NJ SNAP (Supplemental Nutrition Assistance Program), TANF (Temporary Assistance to Needy Households), Medicaid Free or Medicaid Reduced benefits or who are otherwise eligible (See #4 for details).
2. Serve meals at no cost to students from households whose income is at or below the State of New Jersey Expanded Income Eligibility Guidelines established by the Working Class Families' Anti-Hunger Act.
3. Use the "Frequently Asked Questions/Letter to Parents", "How to Apply for School Meals and Summer EBT Instructions", and "Prototype School Meals and Summer EBT Application" provided by the State Agency through *SNEARS (School Nutrition Electronic Application and Reimbursement System)*. These materials will be sent to parents/guardians of all students with access to a Child Nutrition Program no earlier than July 1 and no later than the end of the first week of school and whenever there is a change in eligibility criteria.
 - a. **Public Schools** - N.J.A.C. 2:36 requires all public schools, regardless of current participation in the Child Nutrition Programs, to survey their district enrollment annually, on a school-by-school basis, to determine student eligibility for free and reduced-price benefits. Enrollment includes kindergarten, pre-kindergarten and pre-primary students, even if these grade levels do not participate in Child Nutrition Programs. Results of the surveys must be reported back to the Department.
 - b. **Public and Nonpublic Schools** – N.J.S.A. 18A: 33 - 21.1 requires the State to pay the difference between the federal allocation and the total cost of the reduced price breakfast and reduced price lunches served to students who are federally eligible for reduced price meals.
 - c. **Public Schools and Nonpublic Schools** – N.J.S.A. 18A: 33 – 4 requires the State to provide funding to each school district to reimburse the costs associated with the district's provision of free lunches and breakfasts to students who are federally ineligible for free and reduced price meals, but whose families have an annual household income that is not less than 186% and not more than 224% of the federal poverty level.
4. Conduct Direct Certification as required for determining students eligible for free or reduced price meals as follows:
 - a. Match student enrollment data against corresponding local SNAP, TANF, Foster Care, and Medicaid data to determine those students eligible for free or reduced price school meals;
 - b. Directly certified students must be notified of their determination and are not required to complete the School Meals and Summer EBT Application, however, households directly certified for reduced price meals based on a Medicaid match must be offered the opportunity to apply if their income is within the limit for free meals (using the NSLP's current income eligibility guidelines);

- b. Conduct the matching process in SNEARS and upload the entire student enrollment using the file upload format;
 - c. Conduct Direct Certification a minimum of four times per school year:
 - a. Between July 15 and August 30, 2024;
 - b. Between September 1 and September 30, 2024;
 - c. Between October 1 and October 30, 2024; and
 - d. Between March 1 and March 30, 2025;
 - d. Use Direct Certification instead of information received from paper applications if submitted by the same students' household, except in the following case: if a student is directly certified as foster and other students in the household are not directly certified; and if a student qualifies for DC Medicaid Reduced, the household may still submit a paper application. The student may qualify for free meals based on household income.
 - d. Retain the direct certification status in place for the entire school year and ensure that it remains in place despite notifications of any sort (either from the household or local SNAP office) reflecting changes in SNAP, TANF or Medicaid benefits, unless the student is directly certified as DC Medicaid Reduced and is re-certified by any means for free meal benefits.
 - e. If a household chooses to decline the benefits, the SFA must explain to the household that the change does not have to go into effect, but that they can decline the benefit if they choose; and
 - f. Review duplicates and remove them from the Direct Certification list if the student is no longer enrolled or does not have access to meals in the district;
 - g. In cases where matches were missed through the direct certification process, extend eligibility benefits to all children in the household if any member of that household received SNAP, TANF or is directly certified as Medicaid Free/Medicaid Reduced.
5. Designate a determining official(s) to review School Meals and Summer EBT Applications and make determinations of federal and state eligibility. The determining official(s) must be an SFA employee. All information must be completed on the application before a determination can be made (see below). The official(s) will use the submitted information to determine which students are eligible for federal free or federal reduced price meals, snacks or free milk. The official(s) will also use the submitted information to determine which of the federal denied applications qualify for the New Jersey Expanded Income Eligibility (NJEIE) State Supplement. Eligibility determination for a household is effective for the entire school year and up to 30 operating days into the next school year or until a new eligibility determination is made.

Income Applications: Students will be determined eligible for federal free and federal reduced price meals or free milk by comparing the household size and income information provided by parents or guardians to the current Federal Income Eligibility Guidelines announced by USDA. Any student from a household whose income falls at or below that shown for its size on the eligibility scale will be eligible for either free or reduced price meals or free milk provided that the following information is provided:

- a. The names of all household members (students, other children and adults);
- b. Gross income listed by the amount received by each household member and the frequency or how often the person receives the income as: weekly, biweekly, twice a month, monthly or annually. Income received from work, public assistance, student support, alimony, pensions and retirement, etc. must also be listed in the appropriate column;
- c. The last four digits of the social security number of the adult household member who signs the application must be provided. If that adult does not have a social security number, it must be so indicated on the application;
- d. The application must be signed and dated by an adult household member.

OR

NJ SNAP or TANF/WorkFirst-NJ Households:

- a. Name of the student;
- b. A household NJ SNAP or TANF/WorkFirst-NJ case number; and
- c. Name and signature of an adult household member.

OR

Other Categorically Eligible Households:

- a. **Foster Student:** Foster students are categorically eligible for free meals or free milk, without further application, if there is documentation that the foster student's care and placement is the responsibility of the State or the student is placed by a court with a caretaker household. Households with foster students may include the foster student as a household member, as well as include any personal income earned by the foster student, on the same household application that includes their non-foster student. If the foster family is not eligible for free or reduced price meal benefits, this does not prevent a foster child from receiving free meal benefits. *Adopted students: In cases where the welfare agency has placed a student in a permanent home and/or subsidized the student's adoption, the student is considered a member of the household in which he/she resides. The household size and total income of the household determines the student's eligibility for free or reduced price meals or free milk.*
 - b. **Homeless, Migrant or Runaway Students:** The SFA agrees to designate a liaison or coordinator in situations when a student is homeless, migrant or runaway and to document each student categorically eligible for free meals. Documentation to substantiate free meal eligibility must consist of the student's name, effective date, and the signature of an official or administrator supplying the information. For further guidance on the procedures, refer to the Eligibility Manual for School Meals.
 1. A student is considered homeless if the SFA's homeless liaison/coordinator or director of a homeless shelter identifies that the student is lacking a fixed, regular and adequate nighttime residence under the McKinney-Vento Homeless Assistance Act.
 2. A student is considered migrant if enrolled in a Migrant Education Program (MEP) as determined by the State or local MEP coordinator.
 3. A student is considered a runaway if receiving assistance from a program under the Runaway and Homeless Youth Act and is identified as a runaway student by the SFA liaison/coordinator.
6. Have procedures in place with other State, County and local offices to assure that the SFA is promptly notified of students meeting the above eligibility criterion and that the SFA conducts outreach to these offices in preparation for each new school year.
 7. Have procedures in place regarding applications provided/submitted electronically via the SFA's web site, electronic web based systems or scanning systems. SFAs will annually obtain State Agency approval before using an electronic web based or scanning system.
 - a. The SFA may make the standard SNEARS application, "Frequently Asked Questions/Letter to Parent", "How to Apply for School Meals and Summer EBT Instructions" and "Prototype School Meals and Summer EBT Application" available on the district web site. The household must also be informed how to obtain and submit a paper application. The SFA may accept applications by hard copy or via email and may provide for electronic signatures for such submissions. All disclosure restrictions must be met, and acceptance of the application and electronic signatures must be in accordance with guidance issued in the SP10-2007 memo by Food Nutrition Services (FNS).
 - b. The SFA may use a web-based electronic application system. Households must be informed how to access the system to apply for benefits. The notice must also include a statement which

explains how to obtain a paper application should a household decide they no longer want to complete an electronic application. The system must utilize, at a minimum, the SNEARS prototype application requirements, "Frequently Asked Questions/Letter to Parents", and "How to Apply for School Meals and Summer EBT Instructions" language.

- c. The SFA may scan the paper applications submitted. The scanning process must meet all regulatory requirements. For example, the software/scanner system must be able to recognize and accept less than whole dollar amounts. SFAs using a scanning system must utilize, at a minimum, the SNEARS prototype application requirements, the "Frequently Asked Questions/Letter to Parents", and "How to Apply for School Meals and Summer EBT Instructions" language. Paper applications must be available should a household decline to submit the scanning application.

- 7. Follow carryover procedures for the first 30 operating days of the school year. Carryover of previous year's eligibility applies to direct certification, categorical eligibility determinations and income applications. Carryover is for up to 30 operating days (beginning with the first operating day of school) into the current school year or until a new eligibility determination is made, either approved or denied. The carryover period is not intended to allow schools to delay the processing of the applications. SFAs must process the applications as they are received and promptly notify the household of their current eligibility status (free, reduced or denied). The new eligibility determination supersedes the carryover eligibility. The SFA must carry over eligibility and claim free and reduced price meals served to:

- a. Students who were approved for free/reduced priced benefits from the previous year;
- b. New students whose siblings were approved for free/reduced benefits from the previous year;
- c. Previously approved students who transfer from one school to another within the same district.

For students transferring to a new SFA, eligibility can still be carried over for up to 30 days provided both the sending and the receiving school maintain a copy of the students approved application from the previous school year. If a student transfers from a school participating in the Community Eligibility Provision (CEP) to a nonparticipating CEP school, an application needs to be completed. A non-CEP school receiving a student from a CEP school in September must offer the student a free, reimbursable meal for up to 30 operating days or until a new eligibility determination is made in the current school year, whichever comes first. A non-CEP school receiving a student transferring from a CEP school mid-year must provide free meals to the CEP student for up to 10 operating days or until a new eligibility determination is made.

- 8. Review applications in a timely manner. An eligibility determination must be made, the household notified of its status, and the status implemented within 10 operating days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for students who do not have approved applications on file from the previous year. Students will be served meals and/or snacks and/or milk immediately upon the establishment of their eligibility.
- 9. For limited use in individual situations where a parent or guardian did not submit an application for a student known to be eligible for meal benefits, local SFA officials have the option of completing an application for federal free and federal reduced price meal benefits. When exercising this option, the determining official must complete and file an application on behalf of the student based on the best household size and income information available. The source of the information used by the school official to determine eligibility must be noted on the application. Names of the household members, the last four digits of the social security number and the signature of an adult household member are not required. The household must be notified of the eligibility determination. Applications that have been completed and filed by the determining official should be excluded from the universe of applications subject to verification.

10. Promptly provide parents or guardians with written notification when a household application is federally denied. At a minimum, this denial notice shall include (a) the reason for the federal denial of benefits, (b) notification of the right to appeal, (c) instructions on how to appeal, and (d) a statement reminding parents that they may reapply at any time during the school year. It is recommended the SFA use the State Agency prototype letter.
11. Ensure that the School Meals and Summer EBT Applications are kept confidential and will only be used for the purpose of determining eligibility for the food service program and other educational services approved of by the government. The names, income and other information on the application will NOT be released to any other program/service without prior written consent of the parent/guardian of the student with one exception: The "Frequency Asked Questions/Letter to Parents" notifies parents/guardians that their information may be shared with NJ FamilyCare unless the parent/guardian fills out a form requesting that their information not be shared.
12. Provide student demographic and meal eligibility information for every enrolled student with access to meals in the district via the SNEARS portal for Summer EBT eligibility. For the purpose of Summer EBT eligibility, enrolled students means students who are enrolled in and attending schools participating in the NSLP and/or SBP and who have access to at least one meal service (breakfast or lunch) daily.
13. Ensure compliance with the following nondiscrimination practices for students eligible to receive free and reduced price meals, snacks or free milk:
 - a. There will be no physical segregation of, or any other discrimination against, any student because of his/her inability to pay the full price of the meal, snack and/or milk.
 - b. The names of the students shall not be published, posted or announced in any manner.
 - c. There shall be no overt identification of any of the students by the use of special tokens or tickets or by any other means. Overt identification is any action that may result in a student being recognized as potentially eligible to receive or is already certified for free or reduced price meals or free milk. The SFA must assure that a student's eligibility status is not disclosed at any point in the process of providing free or reduced price meals, including during notification of availability of free or reduced price benefits; certification and notification of eligibility; provision of meals in the cafeteria or alternate serving area; the point of service and through the method of payment. (See #23 for details)
 - d. The students shall not be required to work for their meals or milk.
 - e. The students shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time.
 - f. When more than one lunch or breakfast choice or type of milk is offered which meets the meal pattern requirements, the students shall have the same choice of meals or milk that is available to those students who pay the full price for their meal or milk at no additional charge.
 - g. There is a system in place to identify the language needs of households and ensure that its applications and other household materials (letters, applications, instructions, notices and verification materials) are available in a language that Limited English Proficiencies (LEP) households can understand.
 - h. Include the following statement on all program materials provided to the public:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotope, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
2. **fax:**
(202) 690-7442; or
3. **email:**
program.intake@usda.gov.

This institution is an equal opportunity provider."

14. Complete civil rights compliance information for each school that outlines the racial/ethnic data for students applying for free and reduced price meals, snacks, or free milk, collected annually on October 15th.
15. Maintain eligibility applications and documentation of action taken for three years after the end of the fiscal year to which they pertain. If the audit finding for any year is not resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.
16. Designate a hearing official and establish and use a fair hearing procedure when parents/ guardians appeal the SFA's decision on a School Meals and Summer EBT Application. This hearing official must not participate in the determination process and must be of a higher authority than the determining official. During the appeal process and hearing procedure, the student will continue to receive free or reduced price meals, snacks or free milk. Prior to the initiation of the formal hearing procedure, the parents or the SFA may request (either in writing or orally) a conference to informally discuss the situation, present information or to obtain explanations of the data submitted on the application or the decision rendered. This conference will in no way prejudice or diminish the right to a fair formal hearing. If the parents/guardians and SFA reach an agreement during an informal conference, the formal hearing procedure will not be initiated. Hearings will be scheduled with reasonable promptness and convenience to the household. The household will be given adequate notice as to the time and place of the hearing. The household and the SFA will have the opportunity to be assisted or represented by an attorney or other person at the hearing. In addition:
 - a. The household will have an opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal.

- b. The household and the SFA will have the opportunity to present oral or documentary evidence and arguments supporting their positions without undue interference.
- c. The household and the SFA will have the opportunity to question or refute any testimony or other evidence, and to confront and cross-examine any adverse witness.
- d. The decision of the hearing officer shall be based on the oral and documentary evidence presented at the hearing and made part of the hearing record.
- e. The household or any designated representative shall be notified in writing of the decision of the hearing officer.
- f. A written record of each hearing shall be prepared which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing officer including the reasons for the decision, and a copy of the notification of the decision to the parties concerned.
- g. The written record of all such appeals and challenges and their dispositions shall be retained for three years after the end of the fiscal year to which they pertain. If an audit finding for any year has not been resolved, the records shall be retained and available beyond the three year period as long as required for the resolution of the issues raised by the audit.
- h. For Summer EBT Only:
 - 1. Households have the right to appeal within 90 days after the end of the summer operational period and can appeal a streamlined certification for Summer EBT benefits.
 - 2. The State has to provide a household with back-benefits for Summer EBT if the fair hearing determines that the Summer EBT agency erroneously failed to issue such benefits in the correct amount to an eligible family, an administrative disqualification for intentional Program violation was subsequently reversed, or if there is a statement elsewhere in this part specifically stating that the household is entitled to restoration of lost benefits.

17. Conduct an Independent Review, if applicable. All SFAs with 10 percent or more certification/benefit issuance error found during an administrative review must conduct a second review of applications (Independent Review). Identified SFAs will be notified by June 30th. The second review must be conducted by an entity that did not make the original eligibility determination. It is not required that this second review be performed by an employee of the SFA. The second review must be completed before the household is notified of eligibility. Selected SFAs must conduct a second review of all applications annually until SFA-provided documentation demonstrates that no more than 5 percent of reviewed applications required a change in eligibility. SFAs must submit to the State agency an annual report detailing the number of applications that were subject to a second review, the number and percentage of reviewed applications for which the eligibility determination was changed, and a summary of the type of changes that were made. The information reported must be as of October 31st.

18. Verify a sample of free and reduced applications following the required procedures below. *Note: Schools that only participate in the Special Milk Program are not required to verify applications.*

- a. Three percent (3%) of the free and reduced price applications on file as of October 1 must be verified. Students determined eligible for free meals/milk through the Direct Certification process or homeless, runaway or migrant students are not included in the verification sample size.
- b. The sample size must be randomly drawn from error prone applications (Household income within \$25 weekly, \$50 every two weeks or twice a month, \$100 monthly or \$1200 annually of the free and reduced price eligibility guidelines for that household size). In cases in which there are not enough error-prone applications to comply with the required sample size options, SFAs must randomly select additional applications to fulfill the percentage or number requirement. In cases where there is an excess of error prone applications, SFAs will randomly select from the error prone pool to comply with the required sample size.

- c. SFAs must conduct a confirmation review of all applications selected for verification prior to conducting any further verification activity. This confirmation review must be conducted by an individual other than the individual who made the initial eligibility determination. This requirement may be waived if the SFA has a technology-based system that demonstrates a high degree of accuracy.
- d. All verification activities must be completed by November 15th of each school year.

19. Verify additional household applications “for cause” if there is information available that indicates that information submitted on the School Meals and Summer EBT application may not be accurate. Verification for cause should be used as a method for SFAs to address application integrity concerns. Verifications for cause must not be used to automatically verify the households of all school district employees whose student is certified for free or reduced price meals. However, from among the list of students approved for free or reduced price meals, an SFA could identify students of school district employees and use available SFA salary information available to them to identify questionable applications and then conduct verifications for cause on those questionable applications. SFAs can use verification for cause to review approved applications for free or reduced price meals when known or available information indicates school district employees may have misrepresented their incomes on their applications to receive free or reduced price meals for their student. SFAs and their legal counsel are encouraged to consult with the State Agency prior to undertaking verification for cause where concerns with employee misrepresentation of information on an income eligibility application have been raised.

20. Inform households by written notice that they have been selected for verification and are required to submit the requested information to confirm eligibility for free or reduced price benefits. They shall be informed of the type or types of information and/or documents acceptable to the school and the name and phone number of a school official who can assist in the verification effort. All households selected for verification shall be advised that failure to cooperate with verification efforts will result in a termination of benefits. SFAs must provide all households selected for verification with a telephone number that they may call for assistance. The telephone number must be free to all households in the SFA area. SFAs must make one additional attempt to contact households that do not respond to the initial verification notification. The SFA must document all contacts and the results of the contact. If the household still does not respond, benefits must be terminated. When verification fails to confirm eligibility or a household should fail to cooperate, the SFA shall reduce or terminate benefits as follows:

- a. A 10-day written advance notification shall be provided to the household prior to actual reduction or termination. It is recommended that the State Agency prototype letter be used. The notice of adverse action may be sent via the postal service or to the email address of a parent/guardian. The SFA cannot notify the household of adverse action by phone. The notice shall advise the household of:
 - The change;
 - The reason for the change;
 - Notification of the right to appeal and the time period within which the appeal must be filed to ensure continued benefits. Households that have been approved for benefits and that are subject to a reduction or termination of benefits later in the same school year shall receive continued benefits if they appeal the decision and request a fair hearing within 10 days of the date of the notice. The benefits will continue while the household awaits the hearing and the decision. Households that are denied benefits upon application shall not receive benefits during an appeal;
 - Instructions on how to appeal; and
 - The right to reapply at any time during the school year;
- b. The reason for ineligibility must be properly documented and retained on file.

- c. If a household that was denied due to failure to cooperate reapplies for benefits during the school year, documents that confirm eligibility must be submitted before the application is approved.
21. Complete the "Verification Collection Report" available on-line in SNEARS, in two parts: Part 1 must be completed between October 1st and October 30th and Part 2 must be completed between October 31st and November 30th.
22. Maintain a copy of the Verification Collection Report, completed Verification Tracker Form #242 for each application verified and all correspondence and documents received.
23. Keep a full record of the following on the application or the Verification Tracker:
- Dates notices were sent;
 - Notes on any contacts made;
 - Result of verification;
 - Reason for denial or change of eligibility and the date; and
 - Signature of the verifying official.
24. Establish procedures to collect money from students who pay for their meals, snacks, or milk. The procedures will assure that no student will be made aware of the identity of students receiving free and reduced price meals, snacks, and/or free milk at the time that the money for meals, snacks or milk is collected, at the time tickets or tokens are issued, or at the time the lunch, breakfast, snack and/or milk is served. To ensure that there is no overt identification of any student receiving free or reduced price meals, snacks or free milk, the SFA will adopt one or more of the following collection methods:
- a. **Computer or Cash Register/Box:** Money is collected during meal service using cash, a computer, cash register, or cash box.
Preventing Overt Identification: The option of prepaying for meals or milk must be advertised. Examples: posting of signs on the serving line or in the cafeteria, including information with school announcements, newsletters and/or menus and/or posting prepayment options on the SFA's web site.
 - b. **Classroom Collection:** All monies for meals, snacks and/or milk are collected daily in the classroom. Money is not collected during the meal, snack or milk service.
Preventing Overt Identification - Students pay for their meals, snacks or milk individually during a specific period of time. Prepayment of meals is advertised.
 - c. **Pre-Payment Billing:** Households provide payment prior to the day the student is consuming meals. This includes the Envelope Method (payment on a weekly or monthly basis) and the incorporation of lunch payment into the monthly tuition.
Preventing Overt Identification – Envelopes with and without money are submitted by individual students at various times. Envelopes are not identifiable to students as free, reduced price, and paid. Tuition payments are private between parents/guardians and the SFA.
 - d. **Non-Pricing:** Students are not charged a fee for meals provided to them by the SFA. In order to be a non-pricing sponsor, the SFA must provide information to the Department explaining how the SFA is covering the costs of the meals.
25. Establish prices charged for full price lunches according to the federal Paid Lunch Equity requirements. All breakfast, snack and/or milk pricing must be at or below the maximum amount allowed by state regulations.

26. Count the number of free, reduced price and full price meals, snacks, and/or half-pints of milk served at the point of service using one of the following methods of accountability: Note: A count of meals, snacks or milk which is based on attendance records and/or meals ordered is not acceptable.

a. **Point of Sale (POS) Systems:** (Computerized accountability systems)

Students are issued "credit card" type identification cards or PINs (personal identification numbers) which they swipe or enter into the computer system at the end of the serving line. The computer program identifies the eligibility category of these students. A back up system (e.g. paper rosters) is required in case the computer system is compromised.

Note: With a POS system, schools must ensure to the maximum extent practicable that student's eligibility and fund balance are not visible on the computer screen to other students.

b. **Ticket/Token Method:**

Participating students receive prepaid, reduced price or free tickets/tokens. These tickets/tokens are identical except for an eligibility code printed on the tickets/tokens which is known only to authorized personnel. Tickets/tokens are collected at the end of the serving line each day.

For schools/sites with programmed cash registers - The cashier punches the register key for the appropriate meal type as indicated by the ticket/token code. The register tallies the number of meals served in each category at the end of the meal service each day. If actual tickets are collected, they should be counted and compared to the tallies on the register receipt as a double check of the accountability system.

For schools without a cash register: After the meal service, tickets/tokens collected at the point of service are counted by authorized personnel to determine the number of meals served, by category.

Note: Different colored tickets, inks and obvious eligibility codes such as "free" and "reduced" must not be used on tickets/tokens. Unless all students are issued tickets/tokens, the availability of prepaid tickets/tokens must be clearly advertised. If a school has tickets/tokens, they must be readily available to all students (i.e., free, reduced and full price) at the same time and place and the school must do a reasonable job of announcing ticket/token availability. If the ticket/token system is not widely used by full price students, it is strongly recommended that schools consider such options as (1) offering a discount on ticket purchases, (2) working with the local parent teacher organization to increase sales or (3) utilizing a different accountability procedure.

c. **Roster Method:**

The roster includes the names of all students (full price, reduced price and free). To obtain meal, snack and/or milk counts by category, the roster must be coded based on the eligibility of the students. The code used on the roster must be known only to authorized personnel. To obtain point of service counts by category, names of students receiving a meal, snack or milk must be checked off when the meal, snack or milk is served to the student. At the end of each day, rosters are tallied by category.

Note: The names of all students participating must be listed on the roster. It is not acceptable to list only the names of free and reduced price student. Obvious codes such as the words "free," "reduced," and "paid" may not be used.

d. **Tally Method:** *The tally method may only be used when all meals, snacks or milk are claimed in one eligibility category, i.e. all free/all paid.* To obtain meal, snack or milk counts, a designated person makes a mark on a tally sheet as each reimbursable meal, snack or milk is served. The tally marks are counted and totaled after the meal or milk service.

- e. **Inventory Method:** *The inventory method may only be used for sites in the Special Milk Program that offer Paid Milk Only (PMO).* On a daily basis, the amount of milk in inventory, delivered, served to students, served to adults, and leftover is documented on a daily milk count worksheet.

SFAs Participating in Community Eligibility Provision (CEP)

26. Serve, count and claim all students in the participating school(s)/site(s) breakfast and lunch at no cost. The Identified Student Percentage (ISP) is calculated as of April 1st each year and multiplied by a factor of 1.6 to arrive at the free claiming percentage. The difference between the free claiming percentage and 100% results in the paid claiming percentage. The claiming percentage established for an LEA, group of schools, or an individual school is valid for a period of four school years.
27. Conduct Direct Certification as required (See #5 for details) and record data in the "Community Eligibility – Site Data Eligibility Determination Form" in SNEARS (School Nutrition Electronic Application and Reimbursement System).
28. Use the applicable CEP "Letter to Parent" (District-wide or Partial), provided by the State Agency through SNEARS.
29. Take all actions that are necessary to ensure compliance with all nondiscrimination practices for students receiving a meal.
30. Must complete all applicable sections of both Part 1 and Part 2 of the "Verification Collection Report" (as described in #18 of this policy) regardless of whether they are exempt from verification.
31. Count the number of free meals served at the point of service using one of the following methods of accountability.
 - a. **POS (Point of Sale) Systems** (*Computerized accountability systems*)
Students are issued "credit card" type identification cards or PINs (personal identification numbers) which they swipe or enter into the computer system at the end of the serving line. The computer program will tally the total number of free meals served.
 - b. **Ticket/Token Method:**
Students receive tickets/tokens which are collected at the end of the service line. After the meal service, tickets/tokens are counted to obtain the total number of free meals served.
 - c. **Roster Method:**
The roster includes the names of all students who have access to the breakfast and lunch program. The names of the students must be checked off at the point of service. After the meal service, the "checked" names are counted to obtain the total number of free meals served.
 - d. **Tally Method:**
A designated person makes a mark on a tally sheet at the point of service. After the meal service, the tally marks are counted to obtain the total number of free meals served.

Residential Child Care Institutions (RCCI)

32. In all RCCIs, whether there is parental support or not, the residential student always is a family of one. Eligibility classification (free, reduced price or paid) is based on the student's income. The amount of money a student personally receives or earns from any full-time or regular part-time source shall be considered as income. Therefore, institutionalized students are not to be categorically certified as eligible for free or reduced price benefits.

33. A record of each institutionalized student's income, even if "0", shall be identified on an intake application or free and reduced price meal eligibility documentation sheet, which must be signed by an appropriate official. The intake application shall include the following statement:

"In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex (including gender identity or sexual orientation), disability, age or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
2. **fax:**
(202) 690-7442; or
3. **email:**
program.intake@usda.gov.

This institution is an equal opportunity provider."

34. Day students in an RCCI shall have School Meals and Summer EBT applications on file if the institution is claiming a free or reduced price meal for the student. If a day student's family income is above the eligibility limit, the institution must claim the student in the paid category. This is required even though the RCCI does not actually charge the student for the meal. (Please refer to sections #4 and #5 of this Policy for more details.)
35. All RCCIs operating the NSLP and/or SBP must complete all applicable sections of both Part 1 and Part 2 of the Verification Collection Report (as described in #18 of this policy) regardless if they are exempt from verification.
36. Count the number of free (and reduced price or full price, if applicable) meals served at the point of service using one of the following methods of accountability:
Note: Separate meal counts must be taken for breakfast and lunch. Census or attendance counts are not acceptable as point of service meal counts.

- a. **POS (Point of Sale) Systems** (Computerized accountability systems)
Students are issued "credit card" type identification cards or PINs (personal identification numbers) which they swipe or enter into the computer system at the end of the serving line. The computer program will tally the total number of free meals served.
- b. **Ticket/Token Method:**
Students receive tickets/tokens which are collected at the end of the service line. After the meal service, tickets/tokens are counted to obtain the total number of free meals served.
- c. **Roster Method:**
The roster includes the names of all students who have access to the breakfast and lunch program. The names of the student must be checked off at the point of service. After the meal service, the "checked" names are counted to obtain the total. Day students the rosters must be coded by eligibility category.
- d. **Tally Method:** (The tally method may only be used when all meals or snacks are served and claimed in one eligibility category, i.e. all free).
To obtain meal or snack counts, a designated person makes a mark on a tally sheet as each reimbursable meal or snack is served. The tally marks are counted and totaled after the meal or snack service.