STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

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STATE SUPERINTENDENT

FISCAL YEAR 2013
CHILD AND ADULT CARE FOOD PROGRAM
OPERATIONAL MEMORANDUM #36

TO: Child and Adult Care Food Program Institutions

FROM: Kyle L. Guerrant, Director (K.G.) 9-9-13
Office of School Support Services

DATE: September 9, 2013

SUBJECT: **Guidance on the Food Donation Program in Child Nutrition Programs**

Attached is guidance from the United States Department of Agriculture on the Food Donation Program in Child Nutrition Programs, CACFP 05-2012, as previously issued.

If you have any questions regarding this memorandum, contact the Child and Adult Care Food Program office at 517-373-7391.

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608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov/mde • (517) 373-3324

United States Department of Agriculture

Food and Nutrition Service
3101 Park Center Drive
Alexandria, VA 22302-1500

DATE: February 3, 2012

MEMO CODE: SP 11-2012, CACFP 05-2012, SFSP 07-2012

SUBJECT: Guidance on the Food Donation Program in Child Nutrition Programs

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

On November 18, 2011, the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55) amended the Richard B. Russell National School Lunch Act (NSLA) by adding paragraph (l), the Food Donation Program at the end of Section 9. The amendment provides clear statutory authority for current Food and Nutrition Service (FNS) food recovery and donation policy in use by schools and institutions participating in the Child Nutrition Programs, the National School Lunch and School Breakfast Programs, Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP).

Food donation has been a longstanding policy in all Child Nutrition Programs and the current amendment to the NSLA clarifies the policy through statute. Although, FNS does not believe this amendment will require change in current food recovery practices, this memorandum provides updated and consolidated guidance on this issue; therefore, the following existing memoranda relating to this issue are rescinded: SP 29-2009, SFSP 04-2009, CACFP 07-2009, Excess Summer Meals, June 26, 2009.

The statute clarifies that any program food not consumed may be donated to eligible local food banks or charitable organizations. The amendment defines the terms "eligible local food banks or charitable organizations" to mean any food bank or charitable organization which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)). It also extends protections against civil and criminal liability for persons or organizations when making food donations to the extent provided under the Bill Emerson Good Samaritan Food Donation Act, found in section 22 of the Child Nutrition Act.

Food Donation Policy

FNS is committed to preventing hunger and to responsible stewardship of Federal dollars. Child Nutrition Program policy aims first to limit food waste and unnecessary costs. If a school, CACFP institution, or SFSP sponsor has leftover food on a frequent basis, menu planning and production practices should be adjusted to reduce leftovers.

Nevertheless, because of unforeseen circumstances, occasionally there will be leftover food. All alternatives permitted by Program regulations and State and local health and sanitation codes should be exhausted before discarding food. Options may include using leftovers in subsequent meal services, offering "sharing tables," or transferring food to other sites. (*See attached: Donation of Leftover Foods From School Cafeterias, June 11, 1996*). Where it is not feasible to reuse leftovers, excess food may be donated to a non-profit organization, such as a community food bank, homeless shelter, or other nonprofit charitable organizations.

As a result of the Department's Food Recovery and Gleaning Initiative of 1997, a "Best Practice" manual was created which highlighted measures to provide unused food to needy organizations. In addition, the "Citizen's Guide to Food Recovery" was developed as a resource guide on food recovery programs for businesses, community-based organizations, private citizens, and public officials and describes some of the food recovery activities taking place at that time and suggestions for new efforts. These publications can be found at: http://www.fns.usda.gov/fdd/gleaning/besthome.htm and http://www.usda.gov/news/pubs/gleaning/five.htm. FNS will review these resources and determine if they require updating or if additional materials are required to assist schools and local educational agencies in the donation of food.

FNS will continue to support food donation as outlined above. State agencies should direct any questions to their FNS Regional Office.

Original Signed

Cynthia Long
Director
Child Nutrition Division

Attachment

JUN 1 1 1996

SUBJECT: Donation of Leftover Food from School Cafeterias

TO: Regional Directors
Special Nutrition Programs
All Regions

We frequently receive inquiries from schools and the general public concerning the donation of extra foods prepared for the National School Lunch and School Breakfast Programs. It appears that many school food service managers believe that the program regulations prohibit them from donating leftovers to organizations which feed the needy.

As you know, schools may claim reimbursement for only one lunch served per child per day, and schools are expected to plan and prepare sufficient amounts of food to achieve this goal. When the food actually prepared exceeds the amount needed for the reimbursable meal service, schools may dispose of the extra food as they wish as long as they comply with applicable State and local health standards. Thus, schools may donate leftover foods to appropriate nonprofit institutions such as soup kitchens or homeless shelters provided this practice is not prohibited by State or local laws or regulations. The Department of Agriculture strongly encourages them to consider this option whenever it is feasible. This policy is in keeping with Secretary Glickman's active promotion of local gleaning and donation programs to feed the poor and homeless.

Please remind your States of this longstanding policy and request that they ensure that their local schools are aware of this option.

Alberta C. Frost

ALBERTA C. FROST
Director
Child Nutrition Division