



STATE OF IOWA

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DEPARTMENT OF EDUCATION
JASON E. GLASS, DIRECTOR

DATE: March 1, 2012

TO: Authorized Representative
School Meals Program

FROM: Patti Harding, Administrative Consultant
Bureau of Nutrition, Health and Transportation Services

SUBJECT: SP 11-2012, CACFP 05-2012, SFSP 07-2012
Guidance on the Food Donation Program in Child Nutrition Programs

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updated and consolidated guidance on this issue; therefore, the following existing memoranda relating to this issue are rescinded: SP 29-2009, SFSP 04-2009, CACFP 07-2009, Excess Summer Meals, June 26, 2009.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.

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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.