

# Healthy, Hunger-Free Kids Act of 2010

## Summary of Sections Impacting the Child and Adult Care Food Program Institutions

### Illinois State Board of Education Nutrition Programs Division

Last updated February 23, 2012

The Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, was signed into law on December 13, 2010. This Act modifies the requirements for the operations of the Child and Adult Care Food Program (CACFP). The Act makes many important improvements to CACFP. The purpose of this memo is to summarize the changes that have been imposed by the Act thus far. The Act is available at [http://www.isbe.net/nutrition/htmls/hunger\\_free.htm](http://www.isbe.net/nutrition/htmls/hunger_free.htm).

All institutions are encouraged to review each of these mandates, review their current procedures, train staff on the changes, and revise all necessary written procedures. We will continue to update this document as information becomes available to our agency. If you have any questions, please contact CACFP center staff at 1-800-545-7892 or email [cnp@isbe.net](mailto:cnp@isbe.net).

#### **New notifications**

##### At-Risk Afterschool Meals Component of CACFP

As of December 13, 2010, the Healthy, Hunger-Free Kids Act of 2010 expanded the availability of the At-Risk Afterschool Meals program in all states. Illinois has participated in the At-Risk Afterschool Snack and added the Supper Program in 2001, thus no impact other than the benefit of the added guidance book [At-Risk Afterschool Meals Handbook](#) and Questions and Answers included in [CACFP Memo 08-2012](#).

#### **Prior Notifications**

##### Fluid Milk and Fluid Milk Substitutions—For ALL Institutions

On May 11, 2011, USDA issued a memo that changed the requirements for fluid milk and fluid milk substitutions in the Child and Adult Care Food Program (CACFP). Fluid milk served in the CACFP must now be consistent with the most recent version of the Dietary Guidelines for Americans and allows the substitution of non-dairy beverages that are nutritionally equivalent to fluid milk in cases of special dietary needs.

- **Fat-Free and Low-Fat Milk**

The 2010 Dietary Guidelines recommend that persons over two years of age consume fat-free (skim) or low-fat (1%) fluid milk. Therefore, fluid milk served to children two years of age and older must be: fat-free or low-fat milk, fat-free or low-fat lactose reduced milk, fat-free or low-fat lactose free milk, fat-free or low-fat buttermilk, or fat-free or low-fat acidified milk. Milk served must be pasteurized fluid milk that meets State and local standards, and may be flavored or unflavored. Whole milk and reduced-fat (2%) milk may not be served to children over two years of age. Because the Dietary Guidelines for Americans do not address milk served to children under the age of two, the requirements to children in this age group are unchanged.

- **Non-dairy Beverages**

If children cannot consume fluid milk due to medical or other special dietary needs, other than a disability, non-dairy beverages may be served in place of fluid milk. Non-dairy beverages must be nutritionally equivalent to milk and meet the nutritional standards for fortification of calcium, protein, vitamin A, vitamin D, and other nutrients to levels found in cow's milk. Refer to the information on our website at [http://www.isbe.net/nutrition/pdf/cacfp\\_fluid\\_milk\\_qa.pdf](http://www.isbe.net/nutrition/pdf/cacfp_fluid_milk_qa.pdf) to ensure the milk substitute meets the specific requirements.

Parents or guardians may now request in writing non-dairy milk substitutions without providing a medical statement. As an example, if a parent has a child who follows a vegan diet, the parent can submit a written request to the child's caretaker asking that soy milk be served in lieu of cow's milk. The written request must identify the medical or other special dietary need that restricts the diet of the child. Such substitutions are at the option and expense of the facility.

The requirements related to milk or food substitutions for a participant who has a medical *disability* and who submits a medical statement signed by a licensed physician remain unchanged. The fluid milk and fluid milk substitutions requirement is effective immediately but should occur no later than October 1, 2011.

#### Water Availability—For ALL Institutions

On May 11, 2011 USDA established a requirement to make potable water (water that is safe for humans to drink) available to children participating in the Child and Adult Care Food Program (CACFP). Throughout the day, including at meal times, water should be made available to children to drink upon their request, but does not have to be available for children to self-serve. While drinking water must be made available to children during meal times, it is not part of the reimbursable meal and may not be served in place of fluid milk.

The 2010 Dietary Guidelines for Americans do not establish a daily minimum intake for water consumption, but do recommend that water be consumed daily. However, caregivers should not serve young children too much water before and during meal times which will reduce the amount of food and milk consumed by the children. Water should be offered to children in a variety of ways which includes but is not limited to: having cups available next to the kitchen sink faucet, having water pitchers and cups set out, or simply providing water to a child when it is requested. Facilities are encouraged to serve water with snacks when no other beverage is being served.

We expect that this can be put in place with no or very low cost. However, circumstances may arise in which safe water is not readily available in a facility. In these instances, purchasing water for children may be considered a reasonable and allowable cost for participating facilities. The purchasing of water will be an unallowable cost if purchased for adult or employee consumption. Drinking water must be made available to children upon their request throughout the day and at meal times. The amount of reimbursement per meal is unchanged. This provision is effective immediately but no later than October 1, 2011.

#### Cooperation with Program—For ALL Institutions

On March 8, 2011 the USDA clarified the requirements to participate in evaluation and research in the Child Nutrition Programs. Section 305 of the Act amends section 28 of the Richard B. Russell National School Lunch Act (NSLA) to clarify that State agencies, local educational agencies, schools, institutions, facilities and contractors are required to cooperate with USDA officials and contractors when conducting evaluations and research.

#### Varied Timing of Unannounced Reviews—For Sponsoring Organizations ONLY (does not apply to single-site institutions)

On April 7, 2011, the USDA imposed the requirement for sponsors to vary the timing of unannounced reviews so they are unpredictable to sponsored facilities. Regulations require sponsors to conduct three reviews per year, two of which must be unannounced. One of the unannounced reviews must include observation of a meal service. No more than six months may elapse between reviews. Beginning October 1, 2011, sponsoring organizations must ensure that the timing of unannounced reviews is varied in a way that would ensure they are unpredictable to the facility. Therefore, unannounced reviews that follow a consistent pattern undermine the intent of the Program's unannounced review requirements. For example, if all unannounced reviews conducted during a four month period of time are all scheduled to review the lunch meal service, these reviews are considered predictable and can no longer be scheduled in this manner.

#### Program Application—For ALL Institutions

On April 8, 2011, the USDA modified the requirements for the periodic submission of renewal applications by institutions participating in CACFP. Section 331 of the Act stipulates that institutions will no longer be required to re-apply after submitting the initial application; rather, they will be required to submit annual information. FNS plans to issue a proposed rule implementing these and other changes. However, currently in Illinois much of the information on the CACFP renewal application rolls-over from the previous year and does not have to be reentered, which fulfills much of this state's obligation.

#### Elimination of Block Claim Edit Checks – For Sponsoring Organizations ONLY (does not apply to single-site institutions)

On December 17, 2010, the USDA issued a CACFP change that stated effective immediately, sponsoring organizations are no longer required to conduct edit checks designed to detect block claims as defined by 7 CFR 226.2 and required by 7 CFR 226.10 (c)(3). Also sponsoring organizations are not required to meet the follow up review requirements associated with detection of block claims. This information was provided in the January 2011, Mealtime Minutes. The Meal Participation Records on our website have been updated to eliminate the Block Claiming requirement. They are available at [http://www.isbe.net/nutrition/htmls/forms\\_cacfp\\_mthly.htm](http://www.isbe.net/nutrition/htmls/forms_cacfp_mthly.htm).

#### Permanent Agreements—For ALL Institutions

On January 14, 2011, the USDA issued a CACFP change to modify the requirements for agreements between the state agency and institutions participating in CACFP. Section 331(a) of the Act amends section 17(d)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)(1)) to require permanent operating agreements. Our *Non-Pricing Agreement*, which is part of the CACFP application, has always been a permanent agreement with no expiration date, but to comply with this regulation we have changed the name to more clearly represent the intent of the regulation. The agreement is now called *Permanent Agreement*. Therefore, the next time you look at the Agreement on Child Nutrition ACES it will be displayed with the new name.

#### Foster Children—For ALL Institutions

On January 31, 2011, the USDA issued a change to grant categorical eligibility for free meals to foster children. **This provision only applies to foster children formally placed by a State child welfare agency or a court.** Up until now, a foster child was considered a household of one and a separate CACFP Household Eligibility Application had to be completed. Now a foster child is categorically eligible, which means the child is automatically eligible for free meals without a CACFP Household Eligibility Application. A foster child may be certified eligible for free meals when you receive a copy of a document:

- 1) From an appropriate State (Department of Children and Family Services, DCFS) or local agency indicating the status of the child as a foster child whose care and placement is the responsibility of the State; or
- 2) That a court has placed the foster child with a caretaker household.

This provision does not apply to informal arrangements that may exist outside of State or court-based systems. Also, this automatic free eligibility does not extend to non-foster children in the same household. The non-foster children must have a CACFP Household Eligibility Application on file to be claimed in the free or reduced-price category; however, there is one change, the foster child can now be included as a member of the household on this application, as well as any personal income earned by the foster child. Allowing the foster child to be included on the application will increase the household size and may increase the possibility that the non-foster children could qualify for free or reduced-price meals.

You may immediately begin implementing the criteria for a foster child to be categorically eligible for free meals; however, if you chose not to implement this new procedure, you may continue to use the CACFP Household Eligibility Applications, form ISBE 69-88 (5/10) until you renew the application for the upcoming fiscal year. The FY2012 CACFP Household Eligibility Application and instructions will be updated with these new criteria.

#### Privacy Protection—For ALL Institutions

On February 15, 2011, the USDA amended statutory requirements for collection of Social Security Numbers (SSNs) in all Child Nutrition Programs. Section 301 of the Act amends section 9(d)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(d)(1)) by removing the requirement that on a CACFP Household Eligibility Application listing income the adult household member who signs the application must provide his or her complete SSN, as a condition of eligibility. This amendment now **requires that only the last four digits of the SSN must be provided on an income application.** We will update the FY2012 CACFP Household Eligibility Application to reflect these changes for the upcoming fiscal year. In the mean time, in Section 5 of the CACFP Household Eligibility Application you are allowed to mark through the first five lines of the social security number before giving the application to parents to complete. This would let parents who are reporting income to ONLY enter the last four digits of their social security number. This Act became effective October 1, 2010. DO NOT go back and mark out SSNs on completed CACFP Household Eligibility Applications prior to that date.