
Child Nutrition Programs Program Agreement

Name of School Food Authority: _____

Mailing Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Fax Number: _____

Contact Person: _____ Title: _____

This Agreement is entered into between the State of Vermont, Agency of Education (hereafter referred to as the State Agency) and the supervisory union, institution, or program whose name and address appear above (hereafter referred to as the School Food Authority) in order to effectuate the purposes of the National School Lunch Act, as amended (42 U.S.C. §1751 et seq.) and the Child Nutrition Act, as amended (42 U.S.C. §1771 et seq.) through one or more of the following programs: the National School Lunch Program, the School Breakfast Program, the Fresh Fruit & Vegetable Program, the Seamless Summer Option, the Special Milk Program, the Child & Adult Care Food Program, the USDA Foods Program, and the Summer Food Service Program (hereafter referred to as the Program(s)). This Agreement may be amended by the State Agency to include current legislation, federal regulatory changes or State Agency policy changes. In consideration of the receipt of any funds or services pursuant to this Agreement, the School Food Authority waives any and all legal rights to challenge the validity of the preceding sentence. All federal and state laws and rules which condition the School Food Authority's receipt and/or expenditure of funds provided for herein, as the same may now or hereafter be amended, shall be deemed incorporated into this agreement.

1. The School Food Authority agrees to administer and be responsible for the operation of the following Program(s): *(check all that apply)*

- National School Lunch Program (NSLP)
- School Breakfast Program (SBP)
- NSLP Afterschool Snack Service
- Fresh Fruit and Vegetable Program (FFVP)
- Seamless Summer Option (SSO)
- Special Milk Program (SMP)
- Child and Adult Care Food Program (CACFP)
- USDA Foods Program
- Summer Food Service Program (SFSP)



- a. The school food authority agrees to administer the Child Nutrition Programs noted above at the following schools/sites: (add additional sheets if necessary)

Site/School Name

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

2. The State Agency agrees to:

- a. Reimburse the School Food Authority, in such amounts as are authorized by federal regulations in connection with providing milk, breakfasts, lunches and/or snacks, and Fresh Fruits & Vegetables to those persons eligible in accordance with 7 C.F.R. Parts 210, 215, 220, 225, 226, 250 and 245. The State Agency's reimbursements to the School Food Authority are conditioned upon receipt of federal funding for the purposes described above, and the continuing eligibility of the School Food Authority for the federal funds;
- b. Notify the School Food Authority of any changes in the Program(s') requirements and assigned rates of reimbursement;
- c. Provide, where applicable, consultative and technical assistance;
- d. Immediately notify USDA of any suspected violation of Section 12(g) of the National School Lunch Act as amended or Section 4(c) of the Agriculture and Consumer Protection Act 1973 as amended to allow USDA in conjunction with US Department of Justice to determine whether federal criminal prosecution is warranted. Whoever embezzles, willfully misapplies, steals or obtains by fraud, donated foods, funds, or any assets or property deriving from donated foods, funds, assets or property for his/her own use or gain knowing such donated foods, funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall be subject to Federal criminal prosecution under either section.
- e. If USDA Foods are included in this agreement, the State Agency Agrees to:
 - i. Distribute those donated foods made available by USDA to eligible programs in accordance with Federal Regulations, Guidelines and instructions thus insuring that Program integrity is maintained;
 - ii. Make every attempt to ensure that donated foods are delivered in accordance with reasonable schedules; however USDA and the State Agency shall not be responsible for delays in delivery or non-delivery of donated foods due to any cause;
 - iii. Investigate promptly claims received in connection with the distribution or use of donated food;

- iv. The State Agency and the USDA reserve the right to inspect commodities in storage, the facilities used for storing such commodities and all records and reports pertaining to the distribution of commodities at any reasonable time;
 - v. The State Agency reserves the right to discontinue immediately further shipments of USDA donated foods to a SFA which fails to comply with the general intents and purposes set forth in this agreement, or any instructions issued pursuant thereto. Either the State Agency or the USDA, or both, shall have the right to take further action through available means when considered necessary, including prosecution under applicable State and Federal statutes or other judicial means of enforcement. USDA commodities will not be made available to agencies that practice discrimination in service, facilities, or employment of persons because of race, color or national origin.
- f. This agreement shall be effective when executed by both parties and shall continue in effect until terminated as provided herein. Either party hereto may, by giving at least thirty (30) days written notice, terminate this agreement. Upon receipt of evidence that the terms and conditions of the agreement have not been fully complied with by the SFA, the State Agency may terminate this agreement immediately by notice in writing to the SFA.

3. The School Food Authority agrees to:

- a. Meet all applicable responsibilities and requirements set forth in 7 C.F.R. Parts 210, 215, 220, 225, 226, 245, 250 and 3015, as well as OMB Circular No. A-102, Attachment O;
- b. Operate a non-profit food service program and use income from the Program(s) only for purposes of the Program(s);
- c. Limit the operating balance of the Program(s) to no more than three months' operating costs, and adhere to all State Agency and federal requirements to account for all revenues and expenditures of the non-profit food service;
- d. Serve meals and/or milk which meet the minimum nutritional requirements specified by federal regulations and which served during the times of each school day specified in such regulations;
- e. Provide meals free or at reduced price and/or milk free to all children who are eligible pursuant to 7CFR Part 245;
- f. Use USDA eligibility guidelines to determine student eligibility for free or reduced price meals and/or free milk. Additionally, the School Food Authority shall furnish a written statement of policy to the State Agency to be followed in making a determination of the recipients of free or reduced price meals or free milk. Upon the State Agency's approval of such policy, the School Food Authority shall publicly announce the policy in the manner required by 7 CFR Part 245;
- g. Price each type of meal as a unit or operate a program that does not charge for meals. If meals are offered at different prices, make all meals at all price levels available to students who receive free or reduced price meals. Competitive foods may, in the discretion of the School Food Authority, be sold in accordance with 7 CFR §210.11, but only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service, the school, or student organizations approved by the school;
- h. Make no discrimination against any child for any reason, including his or her eligibility to receive free or reduced price meals.
- i. Further, "the program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Educational 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 SO.3 and 42; and FNS directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, 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 applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the program application 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 normal working 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, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the program applicant, its successors, transferees, and assignees, as long as it receives assistance or retains possession of any assistance of the USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the program applicant.”

- j. Ensure that the system for approving applications for free and reduced price meals and for collecting money and counting meals does not overtly identify students' eligibility category;
- k. Claim reimbursement only for meals served to children meeting federal eligibility requirements. Further, the School Food Authority shall submit claims for reimbursement in accordance with 7 C.F.R. §210.8, including the establishment of a claims review process as required therein. The School Food Authority official signing a claim shall be responsible for reviewing and analyzing meal counts to ensure accuracy. Failure to submit accurate claims will result in the recovery of any overclaim and may result in a withholding of payments. If failure to submit accurate claims reflects embezzlement, willful misapplication of funds, theft, or fraudulent activity, the penalties specified in 7 CFR §210.26 will apply along with other possible penalties;
- l. Submit claims for reimbursement in accordance with procedures set up by the Department and no later than the sixtieth (60th) day after the last day of the claim month. Failure to adhere to these requirements may, at the Department's discretion, result in the withholding of payments;
- m. Maintain proper sanitation and health standards and all necessary facilities for storage, preparing and serving food;
- n. If USDA Foods are included in this agreement, the SFA agrees to:
 - i. Abide by the USDA Regulations covering the distribution and use of USDA Foods and comply with all provisions that pertain to Recipient Agency procedures;
 - ii. Request and accept USDA Foods only in quantities which can be properly stored and fully utilized without waste;
 - iii. Communicate requests for USDA Foods electronically using the WBSCM system, or other means, as instructed by the Distributing Agency;
 - iv. Provide adequate facilities and personnel for the proper care, handling, storage and use of USDA Foods to safeguard against spoilage, theft, or other loss;
 - v. Immediately report to the Distributing Agency any USDA Foods that are delivered damaged, spoiled, or otherwise unusable;
 - vi. Arrange and pay for delivery of USDA Foods from the state-contracted storage

- warehouse to the SFA's location(s), if applicable;
- vii. Accept responsibility for per-case storage costs charged by the state-contracted storage warehouse for storage of USDA Foods received by the SFA, if applicable;
 - viii. Comply with any instructions received from the Distributing Agency or from USDA regarding recalls or holds of USDA Foods;
 - ix. Report to the Distributing Agency any suspected theft, embezzlement, fraud or willful misuse of or related to USDA Foods;
 - x. If the State Agency issues notice of termination or cancellation of this agreement, the SFA agrees to comply with the instruction of the Food Distribution Program either to distribute or re-donate all remaining inventories of USDA donated commodities in accordance with the provisions of this agreement and to transmit such reports as are required by the State Agency to record the final disposition of such inventories. SFAs will be held by the State Agency to record the final disposition of such inventories. SFAs will be held accountable for any losses occurring prior to the date of termination, which may be revealed in a final closeout audit of the SFA operation.
- o. Maintain full and accurate records of the Program(s) and take all steps necessary to comply with the State Agency's requirements and federal regulations regarding financial management (including 7 C.F.R. §210.14 and Part 3015 as applicable). Additionally, the School Food Authority shall maintain files of approved and denied applications for free and reduced price meals, as well as files of withdrawn applications. The School Food Authority will make all records pertaining to the non-profit food service available, upon request, to the State Agency and/or to the United States Department of Agriculture for audit or review. Such records will be retained by the School Food Authority for a period of three years after the date of the final Claim for Reimbursement for the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the three year period as long as required for resolution of the issues raised by the audit.
 - p. With regard to School Food Authorities with more than one school, perform at least one on-site review of the meal counting and reporting or claiming practices of each school under its jurisdiction no later than February 1 of each school year. As part of such review, the School Food Authority shall complete an on-site review form which is available from the State Agency. If an on-site review discloses problems with the counting and reporting or claiming practices in a school, the School Food Authority shall immediately implement corrective action and shall conduct an additional on-site review within 30 calendar days thereafter to verify that the corrective action was successful. All written documentation of on-site reviews and corrective actions will be maintained on file as part of the records of the program.
 - q. Determine the number of free, reduced price, and paid meals and half-pints of milk served daily by means of an actual meal count at the point of service. The term "point of service" means that point in the food service operation where a determination can accurately be made that a reimbursable, free, reduced-price or paid lunch or half-pint of milk has been served to an eligible child.
 - r. Submit all reports required by the State Agency and by federal regulation.
 - s. No later than December 31 of each school year, provide the State Agency with a report of the number of students in each of the schools in the School Food Authority approved for free and reduced price meals as of the last operating day of the preceding October.

4. In the event that the School Food Authority contracts, or intends to contract, with a food service management company or any other business organization or individual for the operation and/or

management of the Program(s) (hereafter referred to as a program contractor), the School Food Authority will not be eligible for reimbursement unless:

- a. The contract is reached in accordance with federal procurement requirements and 16 V.S.A. §559, and State Agency regulations;
- b. The School Food Authority submits to the State Agency, and secures the State Agency's approval of, any invitations for bid, requests for proposal or any similar document prior to the public distribution and/or publication of such document;
- c. The School Food Authority submits any proposed contract with a program contractor to the State Agency at least 30 days before the intended effective date of such contract, and secures the State Agency's approval of such contract before it is signed or otherwise agreed to by the School Food Authority;
- d. The School Food Authority prepares any and all invitations for bid, requests for proposal, contracts and any other documents related to the procurement of a program contractor; a current or prospective program contractor shall not prepare such documents;
- e. With regard to cost-reimbursable contracts, the School Food Authority shall monitor the program contractor's cost records no less often than monthly; and,
- f. The School Food Authority monitors the food service operation through periodic on-site visits during the operating hours of such program contractor; the first such on-site visit shall occur no later than October 15 of each school year.

5. The term of this Agreement shall be permanent; however, the State Agency and the School Food Authority may revise this Agreement yearly by amendment/renewal.

6. The State Agency, in its discretion, may take corrective action immediately upon receipt of evidence that the terms hereof are not being complied with by the School Food Authority.

"The Program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the Department of Agriculture (7 CFR Part 15), DOJ (28) CFR Parts 42 and 50) and FNS directives or regulations issued pursuant to that Act and the regulations, to the effect that, no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program applicant received Federal financial assistance from USDA; and hereby gives assurance that it will immediately take any measures necessary to fulfill this agreement."

"This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance."

“By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of 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, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.”

The Vermont Agency of Education hereby agrees that it will comply with:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);
- ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- x. The USDA non-discrimination statement that 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, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and

agreements made in this assurance. By accepting this assurance, the State agency agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the State agency, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the State agency.

**For State of Vermont,
Agency of Education:**

For School Food Authority:

Print Name: _____

Print Name: _____

Signature _____

Signature _____

Title _____ Date _____

Title _____ Date _____

For State Agency Use Only:

This Agreement shall be effective from _____ forward.

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, 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 complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint), (AD-3027) found online at: <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint>, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter 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.

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