



State of Arizona
Department of Education

CN# 27-12
SFSP CN# 09-12
USDA SP# 11-2012

MEMORANDUM

TO: Sponsors of the National School Lunch Program

FROM: Mary Szafranski, Deputy Associate Superintendent
Arizona Department of Education, Health and Nutrition Services

Cara Peczkowski, Director
Arizona Department of Education, School Nutrition Programs

DATE: February 14, 2012

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

Original Signed

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 recovery and donation policy in use by schools and institutions participating in the Child Nutrition Programs (CNP), 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. This memorandum provides updated and consolidated guidance on this issue; therefore, SFSP CN 03-09, Avoiding Food Waste at Summer Food Service Program Feeding Sites, July 16, 2009 is no longer a valid reference.

The statute clarifies that any program food not consumed may be donated to eligible local food banks or charitable organizations. The terms “eligible local food banks or charitable organizations” means 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.



CNP 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. 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 USDA’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>.

If you have any questions on these requirements, please contact your School Nutrition Programs Specialist at 602-542-8700.

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