



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

DATE: May 09, 2007

MEMO CODE: CACFP 05-2007

SUBJECT: Additional State Agency Requirements

TO: State Agencies
Child Nutrition Programs
All States

Regional Directors
Special Nutrition Programs
All Regions

The purpose of this memorandum is to provide guidance regarding the criteria and process for State agencies that wish to establish additional Program requirements under the authority provided at 7 CFR 226.25(b) of the Child and Adult Care Food Program (CACFP) regulations. Program regulations require that any additional State agency requirement be approved by the Food and Nutrition Service (FNS) based upon their determination that the requirement:

- is not inconsistent with CACFP regulations, and
- does not deny Program participation to an otherwise eligible institution.

We have become aware of situations in which State agencies have established additional requirements without proper approval. To ensure consistency with Federal program regulations, and that the Department is aware of any additional CACFP provisions imposed by the States, it is important that any additional State agency requirements be submitted for approval well in advance of the State's planned implementation date.

In some instances, a policy more restrictive than Federal requirements would be inconsistent with CACFP regulations while in other cases a less restrictive policy would be in conflict. Federal requirements may establish either a maximum or a minimum amount of time for a particular task or activity to be completed. Clearly, it would be inconsistent with Federal regulations to allow more than the maximum or less than the minimum amount of time to complete the relevant task or activity. When reviewing a State agency's request for approval of an additional requirement, FNS must take into account the interaction of the proposed State agency change with existing CACFP requirements.

We are asking each Regional Office to survey its States to identify additional State agency requirements in effect to ensure that they have been properly approved and promulgated in accordance with the State agencies' administrative procedures.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

In accordance with §226.15(m), once approved, an additional State agency requirement is as binding on the State agency and its institutions as is a Federally established Program requirement. Management Evaluations of States will need to include an assessment of any additional State agency requirements to ensure that, as implemented, they are consistent with CACFP regulations and do not deny the Program to an otherwise eligible institution.

If you have any questions regarding this guidance, Regional Offices should contact Keith Churchill at 703-305-2947 and State agencies should contact their Regional Office representatives.

A handwritten signature in black ink that reads "Stanley C. Garnett". The signature is written in a cursive style with a large initial 'S'.

STANLEY C. GARNETT

Director

Child Nutrition Division