

**CHAPTER 67-21-04  
CHILD AND ADULT CARE FOOD PROGRAM**

Section	
67-21-04-01	Purpose
67-21-04-02	State Agency
67-21-04-03	Use of Federal Funds
67-21-04-04	Eligibility
67-21-04-05	Application
67-21-04-06	Monitoring
67-21-04-07	Reimbursement Claims
67-21-04-08	Meal Service
67-21-04-09	Food Distribution
67-21-04-10	Health and Safety
67-21-04-11	Fiscal Management
67-21-04-12	Family Day Care Home Sponsoring Organization
67-21-04-13	Procurement Standards

**67-21-04-01. Purpose.**

The program, initiated at the federal level and in partnership with the states, provides assistance to the state through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children or adult participants in nonresidential institutions that provide care.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03

**67-21-04-02. State agency.**

The department of public instruction has been designated as the state agency in the state of North Dakota to assist in the implementation, maintenance, and funding of the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03; 7 CFR 226.3

**67-21-04-03. Use of federal funds.**

Unless otherwise specified in this chapter, eligibility to participate in the child and adult care food program is governed by federal child and adult care food program regulations. Local agencies must conform to lawfully issued regulations and policies relating to the program.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226

**67-21-04-04. Eligibility.**

Local agencies eligible to participate in the program include:

1. An adult day care center, licensed or approved, independent or under the auspices of a sponsoring organization.
2. Public or private nonprofit child care centers, or any proprietary title XX centers that meet federal requirements.

3. A child care facility that is a licensed or approved child care center, outside-school-hours care center, or day care home under the auspices of a sponsoring organization.
4. A sponsoring organization that is a public or nonprofit private organization responsible for the administration of the food program in:
  - a. One or more day care homes;
  - b. A child care center, outside-school-hours care center, or adult day care center;
  - c. Two or more child care centers, outside-school-hours care centers, or adult day care centers; or
  - d. Any combination of child care centers, adult day care centers, day care homes, or outside-school-hours care centers.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.2

#### **67-21-04-05. Application.**

Application forms are available at the Department of Public Instruction, 600 East Boulevard Avenue, Department 201, Bismarck, North Dakota 58505-0440. The application forms include:

1. A program agreement, which includes:
  - a. A provision that the institution shall accept final financial and administrative responsibility for management of an effective food service and comply with all program requirements;
  - b. Verification that the local agency will comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and all provisions required by the implementing regulations of the United States department of agriculture. Signature by an authorized representative of the local agency will serve as verification;
  - c. Verification of agreement that the local agency agrees to compile data, maintain records, and submit reports as required and permit authorized personnel to review such records, books, and accounts as needed to ascertain compliance with the program. Signature by an authorized representative of the local agency will serve as verification. Such records must be maintained for three years plus the current year; and
  - d. A requirement that each sponsoring organization shall submit a management plan and administrative budget with its application for review and approval. The state agency will review and approve all individual budget line items, including administrative labor and benefits.
2. A renewal agreement, which must be presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in August and must be returned for approval and renewal by September.
3. A free or reduced-price policy statement and attachments, which must be automatically renewed unless a new or updated statement is entered into by the state and local agency.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.6

#### **67-21-04-06. Monitoring.**

The department of public instruction shall conduct onsite reviews of local agency program operations, as specified in the federal regulations, for the purpose of providing guidance and technical assistance to local agencies. All reviews must include the assessment of overclaims and appropriate corrective action.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-05, 28-32-02

**Law Implemented:** NDCC 15.1-35-05; 7 CFR 226.6

#### **67-21-04-07. Reimbursement claims.**

Local agencies shall submit claims for reimbursement using the child and adult care food program reimbursement claim form provided by the department of public instruction. Such claims are due on the tenth day of the month following the month of the claim. Federal reimbursement levels are determined on an annual basis according to federal law.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.7

#### **67-21-04-08. Meal service.**

All meals served under the program must meet the guidelines as stipulated in the federal regulations.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.20

#### **67-21-04-09. Food distribution.**

Certain local participating agencies, as prescribed in the federal regulations, must make an annual selection of accepting donated United States department of agriculture foods or cash in lieu of United States department of agriculture foods. The amount of commodities for both categories to which local agencies are entitled is determined by law and the availability of commodities.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.5

#### **67-21-04-10. Health and safety.**

The local agency food service program shall adhere to state and local health and food safety requirements, as adopted by the North Dakota state department of health, overviews of which are available from the department of public instruction. A school food service employee who functions as a food preparation site manager shall complete training in food safety and sanitation as defined by the superintendent of public instruction.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03

#### **67-21-04-11. Fiscal management.**

Agencies must maintain a financial management system to account for revenues and expenditures of the food service program and to justify claims for reimbursement. The department requires

authorized representatives of participating child care facilities to annually file a nonprofit status report to document that the center is maintaining a nonprofit financial status. Nonprofit status is further defined as an ending balance that does not exceed the value of three months of operating expenses.

**History:** Effective February 1, 2000.

**General Authority:** NDCC 15.1-35-03, 15.1-35-05, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226.8; 7 CFR 226.15; 7 CFR 226.16

#### **67-21-04-12. Family day care home sponsoring organization.**

The department of public instruction has established special provisions that apply to the family day care home sponsoring organizations.

1. Two of the three periodic monitoring visits made to day care home providers must be made without announcement.
2. Day care home providers may only switch sponsoring organizations at the beginning of a new federal fiscal year.
3. The administrative staff members of family day care home sponsorships may not directly solicit providers known to be currently operating under another sponsorship.
4. The department shall provide oversight in the budgetary planning of sponsoring organizations as stipulated in 7 CFR 226.16. Fiscal year salary adjustments or increases of sponsoring organization administrative staff members must be in line with the corresponding salary increases allowed employees of the state of North Dakota for the same time period.
5. Day care home providers who meet eligibility requirements may claim reimbursement for meals fed to their children only when other child care children are present and eating at the same meal service time.
6. Individuals who are employed by a family day care home sponsoring organization may not simultaneously participate under the same sponsorship as a provider.
7. An eligible family day care home must be a building that is currently a residence, was originally built as a residence, or could be used as a residence with no additional remodeling.

**History:** Effective February 1, 2000; amended effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 7 CFR 226

#### **67-21-04-13. Procurement standards.**

Local agencies shall comply with the requirements of the office of management and budget guidance for grants and agreements, 2 CFR 200 subpart D, concerning the procurement of supplies, food, equipment, and other services with program funds.

**History:** Effective January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 28-32-02

**Law Implemented:** NDCC 15.1-35-03, 15.1-35-05; 2 CFR 200 subpart D