

**CHAPTER 67-21-05  
SUMMER FOOD SERVICE PROGRAM**

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**67-21-05-01. 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 conduct nonprofit food service programs for children during the summer months and at other approved times. The primary purpose of the program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

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

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

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

**67-21-05-02. 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 for local agencies that wish to participate.

**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; 7 CFR 225.3

**67-21-05-03. Use of federal rules and procedures.**

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

**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 225

**67-21-05-04. Eligibility.**

Local agencies eligible to participate include public and private nonprofit agencies including schools, camps, and migrant programs. The department of public instruction will determine the eligibility of applicant sponsors in accordance with criteria established in federal rule 7 CFR 225.6.

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

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

**67-21-05-05. 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. Program agreement that includes:
  - a. Identification of the program or programs the local agency wants to participate in;
  - b. Verification the local agencies will comply with title VI of the Civil Rights Act of 1964 [Pub. L. 88-352] and all requirements imposed by the regulations of the United States department of agriculture [7 CFR part 15], department of justice [28 CFR parts 42 and 50] and food and nutrition directives or regulations issued pursuant to that Act and the regulations, to the effect that, no person in the United States , on the ground of race, color, national origin, sex, age, or disability, may 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 the United States department of agriculture; and hereby gives assurance it immediately will take any measures necessary to fulfill this agreement. Signature by an authorized representative of the local agency serves as verification; and
  - c. The local agencies agree to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized United States department of agriculture 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 United States department of agriculture food and nutrition services may 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 the United States department of agriculture. Signature by an authorized representative of the local agency serves as verification. Such records must be maintained for three years after the end of the fiscal year to which they pertain.
2. Renewal agreement. This document is presented annually to the local agency by the state agency for any appropriate revisions. Forms and information are forwarded to the local agency in April and must be returned for approval and renewal before the start of the program. The renewal documentation includes:
  - a. A site information sheet.
  - b. Documentation supporting the eligibility of the site as serving an area in which poor economic conditions exist, if not a camp or a homeless feeding site.
  - c. For camps, documentation showing the number of children enrolled who meet the program's income standards.
  - d. With site information for a homeless feeding site, information to demonstrate that the site is not a residential child care institution.
  - e. For national youth sports program sites, a certification that all children are enrolled in the national youth sports program.
  - f. Information to enable the department of public instruction to determine whether the applicant meets the criteria for participation in the program as set forth in 7 CFR 225.14,

the extent of program payments needed including a request for advance and startup payments, and, if applicable, a staffing and monitoring plan.

- g. A complete administrative and operating budget for approval by the department of public instruction.
- h. A plan for and a synopsis of its invitation to bid for food service, if required.

3. A free meal policy statement as defined in 7 CFR 225.6.

**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 225.6

#### **67-21-05-06. 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 225.7

#### **67-21-05-07. Reimbursement claims.**

Program payments must be made to approved and operating local agencies upon the submission of the appropriate reports and claim forms. Claim forms 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; 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 225.9

#### **67-21-05-08. 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; 7 CFR 225.16

##### **67-21-05-08.1. Food distribution.**

1. Local agencies may receive United States department of agriculture foods or the value of entitlement through the federal food distribution program through three categories:
  - a. Entitlement United States department of agriculture foods, which are foods that local agencies are entitled to receive under the regulation and are distributed by the state contracted warehouse and transportation facility.
  - b. Local agencies may allocate a portion of their United States department of agriculture food entitlement into the department of defense fresh fruit and vegetable program. Local agencies place orders through the department of defense fruit and vegetable ordering and reporting system and receive deliveries from the nationally contracted distributor.

- c. Bonus United States department of agriculture foods, which are foods offered by United States department of agriculture and do not deduct from United States department of agriculture food entitlement. These foods are periodic and only available if offered by the United States department of agriculture.
- 2. The amount of United States department of agriculture food entitlement, to which local agencies are entitled, is determined by 7 CFR 225.9.

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

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

**Law Implemented:** NDCC 15.1-35-03, 7 CFR 225.9

**67-21-05-08.2. 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 January 1, 2020.

**General Authority:** NDCC 15.1-35-03, 15.1-35-08, 28-32-02

**Law Implemented:** NDCC 15.1-35-01; 7 CFR 225.14

**67-21-05-09. Fiscal management.**

Local agencies must maintain accurate records that justify all costs and meals claimed.

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

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

**Law Implemented:** NDCC 15.1-35-05; 7 CFR 253.15

**67-21-05-10. 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