

5P-2.002 Program Responsibilities.

(1) The Department of Agriculture and Consumer Services shall have the following responsibilities:

(a) To require that all Child Nutrition Programs for which federal reimbursement is granted shall meet at least the minimum standards established by the United States Department of Agriculture as provided in 2 CFR 200 and 7 CFR 15, 15a, 15b, 210, 215, 220, 225, 226, 240, 245, 250 and 252, all revised as of January 1, 2018, which are hereby adopted and incorporated by reference and available online at <https://www.flrules.org/Gateway/reference.asp?No=Ref-09513>.

(b) To require that all Child Nutrition Programs meet at least the minimum standards established by Chapter 595, F.S., under Division 5P, F.A.C.

(c) To distribute the required state matching in such a manner as to comply with the provisions for state matching under the National School Lunch Act, as amended. The annual state matching allocation shall be distributed by computing the district’s percentage share of total federal revenue received times the state general revenue matching allocation. The federal revenue includes Sections 4 and 11 of the National School Lunch Act and Sections 4 and 5 of the Child Nutrition Act of 1966, as amended, for two (2) fiscal years prior to the current fiscal year. The state matching allocation shall be distributed to Sponsors in equal amounts quarterly.

(2) Each School Nutrition Programs Sponsor shall have the following responsibilities:

(a) To provide the necessary food service programs to meet nutritional needs of students during the school day. These food service programs shall be appropriately scheduled and shall include as a minimum a reimbursable lunch and if desired, a reimbursable breakfast, both priced as a unit. Supplemental foods which make a nutritional contribution to these meals may also be provided.

(b) To adopt policies covering all phases of the School Nutrition Program.

(c) To control the sale of food and beverage items in competition with the School Nutrition Program in accordance with 7 CFR 210.11, previously incorporated in paragraph (1)(a) of this rule. Competitive food and beverage items sold to students during the school day must meet the nutrition standards for competitive food as defined and required in 7 CFR 210.11. Unless being sold by the School Nutrition Program, it is impermissible for any competitive food item sold to students during the school day to consist of ready-to-eat combination foods of meat or meat alternate, as defined in 7 CFR 210.10, previously incorporated in paragraph (1)(a) of this rule, and grain products as defined in 7 CFR 210.11. Each Sponsor is permitted to grant a special exemption from the standards for competitive foods as specified above for the purpose of conducting infrequent school-sponsored fundraisers, not to exceed the following maximum number of school days per school campus each school year:

School Type	Maximum Number of School Days To Conduct Exempted Fundraisers
Elementary Schools	5 days
Middle School/Junior High Schools	10 days
Senior High Schools	15 days
Combination Schools	10 days

Elementary Schools: Schools providing regular or other instruction at one or more grade levels from PK through grade 5. This category includes schools serving grade 6 if also serving one or more grades PK through 5 (e.g., a K-6 school).

Middle/Junior High Schools: Schools providing regular or other instruction in middle school configurations (grades 6-8) and junior high school configurations (grades 7-9). This category also includes schools serving a single grade in the 6-8 range (e.g., a 6th grade center).

Senior High Schools: Schools providing regular or other instruction at one or more grade levels from 9 to 12. This classification includes 9th grade centers.

Combination Schools: Schools providing regular or other instruction in grade groupings that include more than one of the categories described above (e.g., PK-8, 6-12, K-12, etc.).

Each Sponsor shall maintain records documenting the occurrence of any exempted school-sponsored fundraisers to demonstrate compliance with this rule. No school-sponsored fundraisers, which include the sale of food items, shall be permitted to occur until thirty (30) minutes after the conclusion of the last designated meal service period. For the purposes of this section, “school-

sponsored fundraiser” shall be defined as any event or activity occurring on the school campus during which currency, tokens, tickets, or the like are exchanged for the sale or purchase of items or services to benefit the school, a school organization or group, or a charitable organization, and which is authorized according to the Sponsor’s policy and has been approved by the school principal or designee.

(d) To maintain a Healthy School Team for all schools under its jurisdiction in accordance with 42 U.S.C. 1758b (10/1/10), which is hereby adopted and incorporated by reference and available online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04501>. Any Healthy School Team should include, but not be limited to, the following stakeholders: parents, students, school food service program representatives, school administrators, school health professionals, physical education teachers and the public as provided in 42 U.S.C. 1758b(b)(3). In addition to the requirements specified in 42 U.S.C. 1758b, a Healthy School Team shall:

1. Be responsible for ensuring compliance with paragraph (2)(c) of this rule and 7 CFR 210.11, previously incorporated in paragraph (1)(a) of this rule, as it relates to competitive food and beverage items sold on a school campus;
2. Maintain a school calendar identifying the dates when exempted competitive food fundraisers will occur in accordance with the frequency specified in paragraph (2)(c) of this rule; and,
3. Report its school’s compliance with this rule to the designated Local Educational Agency official or school official responsible for overall compliance with the Local Educational Agency’s wellness policy as required in 42 U.S.C. 1758b(b)(5)(B).

(e) To provide an alternative food service program for students attending double session schools. The school board, after considering the nutritional needs of all the students attending the school, shall determine the alternative program needed.

(f) To provide for the control, administration, supervision, and operation of all School Nutrition Programs. The Sponsor may contract with a food management company to provide food service in one (1) or more schools; provided that the Sponsor shall retain responsibility for its operation, administration, supervision and control, in compliance with the program agreement and federal regulations.

(g) To adopt a policy for providing economically needy students with free and reduced price lunches and breakfasts, when breakfasts are served, that will comply with 2 CFR 200 and 7 CFR 210 and 220, previously incorporated in paragraph (1)(a) of this rule. This policy shall include a plan for verifying economic need of students and shall be approved by the Department.

(h) To limit the amount of funds recovered annually for food service indirect costs to the restricted federal indirect cost rate approved annually by the Florida Department of Education, multiplied by the total Nonprofit School Food Service Account expenditures less expenditures for capital outlay, replacement of equipment, and USDA Foods; and cash-in-lieu of donated foods.

(3) The school principal and local school staff shall schedule meal serving periods in such a manner as to permit and encourage maximum student participation in the School Nutrition Program.

(4) The following forms are hereby incorporated by reference and may be obtained from the Division of Food, Nutrition and Wellness, Florida Department of Agriculture and Consumer Services, 600 South Calhoun Street, Suite 120, Tallahassee, FL 32399 or online as indicated:

(a) FDACS 01717 Rev. 04/18, National School Lunch Program Claim Form, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09514>.

(b) FDACS 01718 Rev. 04/18, Special Milk Program Claim Form, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09515>.

(c) FDACS 01713 Rev. 04/18, Net Cash Resources Report, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09516>.

(d) FDACS 01716 Rev. 04/18, Child Nutrition Programs Agreement, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09517>.

Rulemaking Authority 570.07(23), 595.404(4), (10), (11) FS. Law Implemented 595.404 FS. History—New 3-26-66, Amended 4-17-72, 4-19-73, 10-20-73, 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 10-18-77, 12-11-79, 1-7-81, 7-28-81, 9-23-81, 6-28-83, 10-15-84, 7-10-85, Formerly 6A-7.42, Amended 5-3-88, 5-16-90, 6-30-92, Formerly 6A-7.042, Amended 10-11-99, 1-25-00, Formerly 6-7.042, 6A-7.0411, Amended 9-24-14, 6-21-18, Formerly 5P-1.003.