



**United States
Department of
Agriculture**

Food and
Nutrition
Service

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SUBJECT: Charter School Involvement in the National School Lunch and
Breakfast Programs
TO: State Directors
Child Nutrition Programs
All States

Recently we have received a number of questions concerning the involvement of Charter Schools in the National School Lunch and Breakfast Programs. Attached are several questions and answers on Charter schools. Please share this information with your school food authorities.

If you have any questions, State agencies should contact your regional office.

Original Signed

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Chief
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Attachment

Q: Are Charter Schools allowed to participate in the National School Lunch and School Breakfast Program?

A: Yes. They participate as public schools.

Q: How do Charter Schools differ from “traditional” public schools?

A: In lieu of adhering to the standard education requirements for public schools, Charter schools operate under an individual charter, or contract, with a public body, generally a State or local board of education. These charters stipulate how the school must operate and how well the students will perform. In many cases, the charter is granted from an authorizer (usually a public university) and the school operates with an independent Board of Directors. The Board typically is comprised of community, civic and business leaders and a parent from each individual charter school.

Q: Are Charter Schools bound by the same NSLP/SBP regulations as public schools and private schools?

A: Yes they are. While some Charter Schools might interpret their status as allowing them to depart from the nutrition and accountability standards for the school lunch and breakfast programs, this is not the case.

Q: For purposes of NSLP/SBP, who is considered the school food authority (SFA)---the Charter School or the Board of Directors?

A: An SFA as defined by 7 CFR Part 210.2 is the governing body which is responsible for the administration of one or more schools; and has the legal authority to operate the programs therein or be otherwise approved by FNS to operate the programs. In the situation described above, the Board is the designated SFA and as such enters into an agreement with the State to operate the National School Lunch Program and School Breakfast Program.

Q: Can the Board, as the designated SFA, enter into a contractual relationship with a food service management company to manage its school meal operations?

A: Yes. The school meal program regulations are very clear regarding the responsibilities of SFAs that contract with food service management companies (FSMCs). They clarify that any SFA that employs a FSMC retains ultimate responsibility for all aspects of program administration.

Q: Can the Board opt to use what is commonly referred to as an Education Service Provider (ESP) to manage and operate the Charter School and, in doing so, assign its administrative responsibilities to the ESP?

A: Yes. It is permissible for the Board to assign its administrative responsibilities to an ESP, which then essentially functions as the SFA. This determination may be based on the recognition that the Board, which is comprised of parents and other professionals, are board members in the fiduciary sense, rather than administrators, and thus the school would be better served by allowing the ESP to assume the administrative functions. This means the Board could assign to the ESP eligibility, verification, and all other responsibilities for which it, the SFA, is responsible. Such responsibilities may also include conducting a self-operated food operation or competitively procuring the services of a FSMC. Assigning the administrative responsibilities to an ESP does not mean that the Board abdicates or transfers its responsibility to ensure all program requirements are met.

Q: Who in this construct would sign the agreement with the State Education Agency, the Board or the ESP?

A: As the Board is ultimately responsible for the success of the program and ensuring that all program requirements are met, the signed agreement must be between the Board and the State.

Q: What if the ESP administers Charter Schools in multiple states? Can the ESP conduct all eligibility, verification and other functions at a location outside the jurisdiction of the state where the charter is held?

A. Yes, as long as doing so does not in any way cause inconvenience or act as an impediment to the families applying for benefits, or cause required records to be unavailable at the school, for review, at anytime specified by the State.