

COLORADO DEPARTMENT OF EDUCATION

Colorado State Board of Education

1CCR 301-82

RULES FOR THE AUTHORIZATION OF CHARTER SCHOOLS AS SCHOOL FOOD AUTHORITIES

1.0 Statement of Basis and Purpose

The statutory basis for these rules is found in sections §22-2-107(1)(c), § 22-2-108, §22-30.5-502 (10.5), § 22-30.5-505(14), § 22-32-120(7), 42 U.S.C., 1751 et seq. 42 U.S.C., 1771 et seq.

Pursuant to these statutes, the State Board of Education shall promulgate rules to achieve the following purposes, including but not limited to:

- (a) Establishing a timeline and processes by which a district charter school or an institute charter school may apply for authorization as a school food authority; and
- (b) Establishing a timeline, standards, and procedures to use in granting or denying authorization as a School Food Authority to a district charter school or institute charter school.

2.0 Definitions

2.01 "Applicant" means a district charter school or an institute charter school.

2.02 "Certificate of license" means a grant to operate a retail food establishment without a fee under the conditions set forth in section 25-4-1607(9). A Certificate of License may be issued to and in the name and address of any parochial, public, or private school.

2.03 "Charter School Food Authority" means a school district or the state charter school institute or a district charter school or an institute charter school that: the commissioner or his or her designee provisionally authorizes as a School Food Authority pursuant to section 22-32-120(6); the department of education authorizes as a School Food Authority pursuant to section 22-32-120(5).

2.04 "Child Nutrition Programs" means the Programs a School Food Authority may participate in that includes but is not limited to: the National School Lunch Program (NSLP), School Breakfast Program (SBP), After School Care Snack Program (ASCSN), Fresh Fruits and Vegetables Program (FFVP), Special Milk Program (SMP), Summer Food Service program (SFSP)

2.05 "Department" means the Colorado Department of Education created and existing pursuant to §24-1-115, C.R.S.

2.06 "FNS" means the Food and Nutrition Service, United States Department of Agriculture.

- 2.07 "Food Service Management Company" means a commercial enterprise or a nonprofit organization which is or may be contracted with by the school food authority to manage any aspect of the school food service.
- 2.08 "Hazard Analysis and Critical Control Point (HACCP)" means a food safety management system that focuses on the control of biological, chemical, and physical hazards in food and food preparation practices. The plan monitors the flow of food in the operation utilizing Critical Control Points (CCP) and Standard Operating Procedures (SOP).
- 2.09 "Lunch" means a meal service that meets the applicable nutrition standards and portion sizes in 7 CFR 210.10 for lunches.
- 2.10 "Menu Planning Options" means: (1) Traditional food based (2) Enhanced food based (3) Nutrient standard.
- 2.11 "National School Lunch Program" means the Program under which participating schools operate a nonprofit lunch program in accordance with 7 CFR 210. General and special cash assistance and donated food assistance are made available to schools in accordance with 7 CFR 210.
- 2.12 "Nonprofit School Food Service Account" means the restricted account in which all of the revenue from all food service operations conducted by the School Food Authority principally for the benefit of school children is retained and used only for the operations or improvement of the nonprofit school foodservice.
- All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, catering, à la carte, vending, concessions, contract meals, grants and loans shall be credited to the Non-profit School Food Service Account on a daily basis.
- 2.13 "Program" means the Child Nutrition Programs.
- 2.14 "Public School" means a school that received a majority of its funding from moneys raised by a general state, county, or district tax and whose property is owned and operated by a political subdivision of the state.
- 2.15 "School Food Authority" means the governing body which is responsible for the administration of one or more schools, and has the legal authority to operate the National School Lunch Program therein or be otherwise approved by FNS to operate the Program.
- 2.16 "School Meals Initiative" means a review of the menu planning approach and nutrition standards compliance of meals served in Child Nutrition Programs.
- 2.17 "State Board" means the State Board of Education created pursuant to Section 1 of Article IX of the State Constitution.
- 2.18 "Types of Meal Service" means self-preparation and vended meal service.

3.0 Procedures for Authorization as a School Food Authority

- 3.01 The application, documentation and other necessary information must be submitted on forms to be provided by the Nutrition Unit of the Department prior to the established deadline for review.
- 3.02 Application Requirements

3.02.1 A description of the scope and nature of the proposed food service operation

3.02.2 A business plan to include:

3.02.2.1 Budget which includes projected revenues and expenditures. Revenues are to include, but are not limited to: student payments, adult payments, federal reimbursement, state reimbursement, and other revenues. Expenditures are to include, but are not limited to: food and milk, salaries and benefits, purchased services, other supplies and materials, equipment, and depreciation

3.02.2.2 Staffing – The number of food service employees, positions and hours by employee type. Staffing requirements may vary depending on the number of students served, meal pattern, food production method and administrative duties.

3.02.2.3 Facilities. A description of facility type and equipment, not limited to an evaluation, assessment, and description of equipment and facility layout:

(a) Full Preparation Kitchen: All food is stored, prepared and served on-site. The facility has preparation equipment, i.e., convection ovens, steamers, warmers, steam table, refrigeration. Food service staff prepares and serves meals.

(b) Heat and Serve Only: Limited preparation and production required. Majority of items are commercially prepared items.

(c) Serve Only: All food is prepared and delivered into the school by an outside food service company/catering company; the school has no capacity to heat and serve meals. Hot and cold holding equipment is required.

3.02.2.4 Determination of type of meal planning method. All methods must show they meet USDA nutritional requirements. A meal planning method must be chosen from the following:

(a) Traditional Food Based: Based on four component meal patterns with specific amounts for different age/grade groups (meat/meat alternative, grains/breads, vegetables/fruits, fluid milk).

(b) Enhanced Food Based: Similar to Traditional Food Based planning; however, there are different established age/grade groups and increased servings of Vegetables/Fruits and Grains/Breads to help ensure consistency with the USDA recommended dietary guidelines.

(c) Nutrient Standard: Based on nutrient value of food (calories, fat, carbohydrate, protein, etc.) The school must use USDA-approved computer software to complete analysis of each menu item.

3.02.2.5 Types of Meal Service (delivery): Specification of the type of meal service that will be provided for the operation.

(a) Self-preparation/on-site meal preparation includes: menu development, cycle menus, standardized recipes, production worksheets; a

plan for retail food service establishment license; HACCP with SOP; conducting on-site reviews; Point of Service – daily meal counts by eligibility; monthly submission of claim for reimbursement.

- (b) Vended (Informal Bid Process) - An informal bid process allows the School Food Authority to solicit quotes for specific meal services which may include menu production, preparation of meals and delivery of meals with a detailed HACCP plan. The School Food Authority must write a description of the vended meals they are seeking which meet the federal nutrition guidelines.

The same information must be provided to each vendor contacted. The School Food Authority must document and retain the information from each of the contacted vendors; for the selected vendor, and a rationale for the selection and accepted bid price must be maintained. The selected vendor prepares food in a facility outside of the school and delivers meals to the school. If the vended operation exceeds one-hundred thousand dollars in a school year, a formal bid process must be used.

School Food Authorities are responsible for preparing the contract and all accompanying bid documents *in accordance with* Title 7, *Code of Federal Regulations (7 CFR)*. School Food Authorities may use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in Section 3016.36. Sections 3016.60(b) and 3016.36(c)(1) of 7 CFR, prohibiting sponsors from awarding a contract to any vendor that prepared or had a significant role in developing the contract and related bid documents; e.g., a price quote, request for proposal and bid specifications. These bidders must be excluded from competing for such procurements. Any action that diminishes open and free competition seriously undermines the integrity of the procurement process and may subject the sponsor to bid protests.

- (c) Contracting with a Food Service Management Company which includes services from the company (Formal Bid Process). The formal bid process is a much more detailed process and may include, but is not limited to, the following activities: advertising in a public manner, typically a local newspaper; providing a Request for Proposal to Food Service Management Companies registered with the Department; offering facility review visits, and establishing a date and time for opening bids.

The formal bid process requires the School Food Authority to document the bid process and include a rationale for the selection of the bidder and the awarded contract amount. The School Food Authority must maintain the bid documentation for the duration of the contract, or in the event of a contract and/or procurement process audit finding, three years beyond the final resolution of the findings.

School Food Authorities are responsible for preparing the contract and all accompanying bid documents in accordance with Title 7, *Code of Federal Regulations (7 CFR)*. School Food Authorities may use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements

conform to applicable federal law and the standards identified in Section 3016.36. Sections 3016.60(b) and 3016.36(c)(1) of 7 CFR, prohibiting sponsors from awarding a contract to any vendor that prepared or had a significant role in developing the contract and related bid documents; e.g., a price quote, request for proposal and bid specifications. These bidders must be excluded from competing for such procurements. Any action that diminishes open and free competition seriously undermines the integrity of the procurement process and may subject the sponsor to bid protests.

The School Food Authority must follow procedures, prototypes, and timelines developed by the Nutrition Unit within the Department, unless such variation is approved in advance.

3.02.2.6 Food Safety Plan based on Hazard Analysis and Critical Control Point (HACCP) principles for the preparation and service of meals.

3.02.2.7 Meal Counting and Payment Method. Each reimbursable meal (meal that meets the pattern requirements) must be counted at point of service in the student's eligibility category (free, reduced, or paid) with no overt identification. Receipt of payment for student's meals must remain the responsibility of the SFA and cannot be delegated to a third party.

3.02.2.8 Proposed timeline for:

(a) Procurement of necessary equipment

(b) Hiring and training personnel

(c) Securing necessary food licenses and inspections

(d) Establishing ordering, payment and charging policies for sites as well as communicating to parents about those procedures, and

(e) A system for issuance of meal benefits and updating eligibility of free and reduced price lunches.

3.02.2.9 Proposed infrastructure to service schools from other districts requesting to participate. The plan must include specific information on how the Charter School Food Authority will work with charter schools with providing training and oversight.

3.02.3 A statement from the district charter school or institute charter school of its willingness to contract, to the extent practicable, with other district charter schools and institute charter schools to provide a food service program.

3.03 Review Procedures

3.03.1 The department shall review the submitted applications and requested business plans for schools who have successfully submitted all necessary documentation.

- 3.03.2 A business plan will be reviewed by the department and meetings will be set up for clarification and assistance in developing a program that complies with all Child Nutrition Program (CNP) rules and regulations.
- 3.03.3 Applications will be reviewed and scored on four major criteria:
 - 3.03.3.1 The ability to operate a sound financial program based on past, present and forecasted financial standing;
 - 3.03.3.2 The school's ability to serve a minimum of 200 students with the ability to expand to upwards of 600 students housed in schools throughout the state;
 - 3.03.3.3 The capacity to operate a National School Lunch Program including the basis of staffing, facilities, and management structure; and
 - 3.03.3.4 Willingness and capability to provide services to charter schools residing in other geographic areas in Colorado which may include several school districts.

3.04 Eligibility and Implementation

- 3.04.1 The applicant shall request in writing to its authorizing school district or the charter school institute to contract for food services under terms specified by the applicant.
- 3.04.2 The applicant must first negotiate with the district board of education for food services. If the school district is unable to provide the requested service, then the school district board of education shall allow the district charter school to transfer the maintenance, supervision, and operation of the district charter school's food-service facility from the district to a charter school food authority.
- 3.04.3 The applicant shall submit to the Department a written authorization from the local board of education or superintendent releasing the applicant from the existing SFA.
- 3.04.4 The Department shall not grant authorization as a school food authority to more than four applicant charter schools until July 1, 2011.
- 3.04.5 Application due date: February 15th of any year unless a specific extension is granted by the Department.
- 3.04.6 Charter schools interested in applying to become a School Food Authority must attend a Department training necessary for Program implementation.
- 3.04.7 No later than April 1, 2010 the Department will grant or deny authorization to charter schools granted provisional authorization as School Food Authorities.
- 3.04.8 No later than April 1 of any year, the Department will grant or deny authorization to a charter school applying as a School Food Authority.
- 3.04.9 Timeline upon approval, the Charter School Food Authority shall be required to:

3.04.9.1 No later than 45 days following approval as a School Food Authority, the following must be completed:

3.04.9.1.1 Enter into contracts to provide a food service program to district charter schools or institute charter schools as practicable.

3.04.9.1.2 Apply and assist contracted charter schools and institute charter schools in applying to local county health department for necessary certificate of retail food establishment license (if applicable).

3.04.9.2 May – July – Procurement process is completed.

3.04.9.3 July - Submit to the Nutrition Unit of the Department a HACCP plan for a self-operated food service program; or for a vended program, a HACCP plan including procedures from the FSMC plan in combination with site specific standard operating procedures.

3.04.9.4 Prior to award of contract to vendor, submit to the Nutrition Unit of the Department the menus, recipes, and nutrient information for the menu planning option chosen prior to commencement of meal service.