
42 U.S. Code § 1761

Summer food service program for children

(a) In general

(1) Definitions

In this section:

(A) Area in which poor economic conditions exist

(i) In general

Subject to clause (ii), the term “area in which poor economic conditions exist”, as the term relates to an area in which a program food service site is located, means—

- (I) the attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);
- (II) a geographic area, as defined by the Secretary based on the most recent census data available, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);
- (III) an area—
 - (aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and
 - (bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);
- (IV) a geographic area, as defined by the Secretary based on information provided from a department of welfare or zoning commission, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or
- (V) an area for which the program food service site demonstrates through other means approved by the Secretary that at least 50 percent of the children enrolled at the program food service site are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(ii) Duration of determination

A determination that an area is an “area in which poor economic conditions exist” under clause (i) shall be in effect for—

- (I) in the case of an area described in clause (i)(I), 5 years;
- (II) in the case of an area described in clause (i)(II), until more recent census data are available;

(III) in the case of an area described in clause (i)(III), 1 year; and

(IV) in the case of an area described in subclause (IV) or (V) of clause (i), a period of time to be determined by the Secretary, but not less than 1 year.

(B) Children

The term “children” means—

(i) individuals who are 18 years of age and under; and

(ii) individuals who are older than 18 years of age who are—

(I) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations promulgated by the Secretary, to have a disability, and

(II) participating in a public or nonprofit private school program established for individuals who have a disability.

(C) Program

The term “program” means the summer food service program for children authorized by this section.

(D) Service institution

The term “service institution” means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp, that develops special summer or school vacation programs providing food service similar to food service made available to children during the school year under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(E) State

The term “State” means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands; and

(vii) the United States Virgin Islands.

(2) Program authorization

(A) In general

The Secretary may carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit summer food service programs for children in service institutions.

(B) Preparation of food

(i) In general

To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools.

(ii) Information and technical assistance

The Secretary shall assist States in the development of information and technical assistance to

encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions

Eligible service institutions entitled to participate in the program shall be limited to those that—

- (A) demonstrate adequate administrative and financial responsibility to manage an effective food service;
- (B) have not been seriously deficient in operating under the program;
- (C)
 - (i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; or
 - (ii) qualify as camps; and
- (D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) Priority

(A) In general

The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

- (i) Local schools.
- (ii) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.
- (iii) New public institutions.
- (iv) New private nonprofit organizations eligible under paragraph (7).

(B) Rural areas

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps

Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(6) Government institutions

Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7) Private nonprofit organizations

(A) Definition of private nonprofit organization

In this paragraph, the term “private nonprofit organization” means an organization that—

- (i) exercises full control and authority over the operation of the program at all sites under the sponsorship of the organization;

- (ii) provides ongoing year-round activities for children or families;
- (iii) demonstrates that the organization has adequate management and the fiscal capacity to operate a program under this section;
- (iv) is an organization described in section 501(c) of title 26 and exempt from taxation under 501(a) 11 of that title; and
- (v) meets applicable State and local health, safety, and sanitation standards.

(B) Eligibility

Private nonprofit organizations (other than organizations eligible under paragraph (1)) shall be eligible for the program under the same terms and conditions as other service institutions.

(8) Seamless summer option

Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this chapter or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(9) Exemption

(A) In general

For each of calendar years 2005 and 2006 in rural areas of the State of Pennsylvania (as determined by the Secretary), the threshold for determining “areas in which poor economic conditions exist” under paragraph (1)(C) shall be 40 percent.

(B) Evaluation

(i) In general

The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in subparagraph (A) as compared to the eligibility criteria described in paragraph (1)(C).

(ii) Impact

The evaluation shall assess the impact of the threshold in subparagraph (A) on—

- (I) the number of sponsors offering meals through the summer food service program;
- (II) the number of sites offering meals through the summer food service program;
- (III) the geographic location of the sites;
- (IV) services provided to eligible children; and
- (V) other factors determined by the Secretary.

(iii) Report

Not later than January 1, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this subparagraph.

(iv) Funding

(I) In general

On January 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subparagraph \$400,000, to remain available until expended.

(II) Receipt and acceptance

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subparagraph the funds transferred under subclause (I), without further appropriation.

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