

Food and Nutrition Service, USDA

§ 226.20

a written agreement between the center and school. The center shall maintain responsibility for all Program requirements set forth in this part.

(8) Adult day care centers shall collect and maintain documentation of the enrollment of each adult participant including information used to determine eligibility for free and reduced price meals in accordance with § 226.23(e)(1).

(9) Each adult day care center must maintain daily records of time of service meal counts by type (breakfast, lunch, supper, and snacks) served to enrolled participants, and to adults performing labor necessary to the food service.

(10) Each adult day care center shall maintain records on the age of each enrolled person. In addition, each adult day care center shall maintain records which demonstrate that each enrolled person under the age of 60 meets the functional impairment eligibility requirements established under the definition of "functionally impaired adult" contained in this part. Finally, each adult day care center shall maintain records which document that qualified adult day care participants reside in their own homes (whether alone or with spouses, children or guardians) or in group living arrangements as defined in § 226.2.

(11) Each adult day care center must require key operational staff, as defined by the State agency, to attend Program training prior to the facility's participation in the Program, and at least annually thereafter, on content areas established by the State agency. Each meal service must be supervised by an adequate number of operational personnel who have been trained in Program requirements as outlined in this section.

(c) Each adult day care center shall comply with the recordkeeping requirements established in § 226.10(d), in paragraph (b) of this section and, if applicable, in § 226.15(e). Failure to main-

tain such records shall be grounds for the denial of reimbursement.

[53 FR 52591, Dec. 28, 1988, as amended by Amdt. 22, 55 FR 1378, Jan. 14, 1990; 61 FR 25554, May 22, 1996; 62 FR 23619, May 1, 1997; 64 FR 72261, Dec. 27, 1999; 67 FR 43493, June 27, 2002; 69 FR 53546, Sept. 1, 2004; 72 FR 41610, July 31, 2007]

§ 226.20 Requirements for meals.

(a) *Food components.* Except as otherwise provided in this section, each meal served in the Program must contain, at a minimum, the indicated food components:

(1) *Fluid milk.* Fluid milk must be served as a beverage or on cereal, or a combination of both, as follows:

(i) *Children 1 year old.* Children one year of age must be served unflavored whole milk.

(ii) *Children 2 through 5 years old.* Children two through five years old must be served either unflavored low-fat (1 percent) or unflavored fat-free (skim) milk.

(iii) *Children 6 years old and older.* Children six years old and older must be served unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk.

(iv) *Adults.* Adults must be served unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk. Six ounces (weight) or $\frac{3}{4}$ cup (volume) of yogurt may be used to fulfill the equivalent of 8 ounces of fluid milk once per day. Yogurt may be counted as either a fluid milk substitute or as a meat alternate, but not as both in the same meal.

(2) *Vegetables.* A serving may contain fresh, frozen, or canned vegetables, dry beans and peas (legumes), or vegetable juice. All vegetables are credited based on their volume as served, except that 1 cup of leafy greens counts as $\frac{1}{2}$ cup of vegetables.

(i) Pasteurized, full-strength vegetable juice may be used to fulfill the entire requirement. Vegetable juice or fruit juice may only be served at one meal, including snack, per day.

(ii) Cooked dry beans or dry peas may be counted as either a vegetable or as a meat alternate, but not as both in the same meal.

(3) *Fruits.* A serving may contain fresh, frozen, canned, dried fruits, or

fruit juice. All fruits are based on their volume as served, except that ¼ cup of dried fruit counts as ½ cup of fruit.

(i) Pasteurized, full-strength fruit juice may be used to fulfill the entire requirement. Fruit juice or vegetable juice may only be served at one meal, including snack, per day.

(ii) A vegetable may be used to meet the entire fruit requirement at lunch and supper. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.

(4) *Grains*—(i) *Enriched and whole grains*. All grains must be made with enriched or whole grain meal or flour.

(A) At least one serving per day, across all eating occasions of bread, cereals, and grains, must be whole grain-rich. Whole grain-rich foods contain at least 50 percent whole grains and the remaining grains in the food are enriched, and must meet the whole grain-rich criteria specified in FNS guidance.

(B) A serving may contain whole grain-rich or enriched bread, cornbread, biscuits, rolls, muffins, and other bread products; or whole grain-rich, enriched, or fortified cereal grain, cooked pasta or noodle products, or breakfast cereal; or any combination of these foods.

(ii) *Breakfast cereals*. Breakfast cereals are those as defined by the Food and Drug Administration in 21 CFR 170.3(n)(4) for ready-to-eat and instant and regular hot cereals. Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

(iii) *Desserts*. Grain-based desserts do not count towards meeting the grains requirement.

(5) *Meat and meat alternates*. (i) Meat and meat alternates must be served in a main dish, or in a main dish and one other menu item. The creditable quantity of meat and meat alternates must be the edible portion as served of:

- (A) Lean meat, poultry, or fish;
- (B) Alternate protein products;
- (C) Cheese, or an egg;
- (D) Cooked dry beans or peas;
- (E) Peanut butter; or
- (F) Any combination of these foods.

(ii) *Nuts and seeds*. Nuts and seeds and their butters are allowed as meat alternates in accordance with FNS guid-

ance. For lunch and supper meals, nuts or seeds may be used to meet one-half of the meat and meat alternate component. They must be combined with other meat and meat alternates to meet the full requirement for a reimbursable lunch or supper.

(A) Nut and seed meals or flours may be used only if they meet the requirements for alternate protein products established in appendix A of this part.

(B) Acorns, chestnuts, and coconuts cannot be used as meat alternates because of their low protein and iron content.

(iii) *Yogurt*. Four ounces (weight) or ½ cup (volume) of yogurt equals one ounce of the meat and meat alternate component. Yogurt may be used to meet all or part of the meat and meat alternate component as follows:

(A) Yogurt may be plain or flavored, unsweetened, or sweetened;

(B) Yogurt must contain no more than 23 grams of total sugars per 6 ounces;

(C) Noncommercial or commercial standardized yogurt products, such as frozen yogurt, drinkable yogurt products, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruits or nuts, or similar products are not creditable; and

(D) For adults, yogurt may only be used as a meat alternate when it is not also being used as a fluid milk substitute in the same meal.

(iv) *Tofu and soy products*. Commercial tofu and soy products may be used to meet all or part of the meat and meat alternate component in accordance with FNS guidance and appendix A of this part. Non-commercial and non-standardized tofu and soy products cannot be used.

(v) *Beans and peas (legumes)*. Cooked dry beans and peas may be used to meet all or part of the meat and meat alternate component. Beans and peas include black beans, garbanzo beans, lentils, kidney beans, mature lima beans, navy beans, pinto beans, and split peas. Beans and peas may be counted as either a meat alternate or as a vegetable, but not as both in the same meal.

(vi) *Other meat alternates*. Other meat alternates, such as cheese, eggs, and nut butters may be used to meet all or

part of the meat and meat alternate component.

(b) *Infant meals*—(1) *Feeding infants*. Foods in reimbursable meals served to infants ages birth through 11 months must be of a texture and a consistency that are appropriate for the age and development of the infant being fed. Foods must also be served during a span of time consistent with the infant's eating habits.

(2) *Breastmilk and iron-fortified formula*. Breastmilk or iron-fortified infant formula, or portions of both, must be served to infants birth through 11 months of age. An institution or facility must offer at least one type of iron-fortified infant formula. Meals containing breastmilk or iron-fortified infant formula supplied by the institution or facility, or by the parent or guardian, are eligible for reimbursement.

(i) *Parent or guardian provided breastmilk or iron-fortified formula*. A parent or guardian may choose to accept the offered formula, or decline the offered formula and supply expressed breastmilk or an iron-fortified infant formula instead. Meals in which a mother directly breastfeeds her child at the child care institution or facility are also eligible for reimbursement. When a parent or guardian chooses to provide breastmilk or iron-fortified infant formula and the infant is consuming solid foods, the institution or facility must supply all other required meal components in order for the meal to be reimbursable.

(ii) *Breastfed infants*. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered at a later time if the infant will consume more.

(3) *Solid foods*. The gradual introduction of solid foods may begin at six months of age, or before or after six

months of age if it is developmentally appropriate for the infant and in accordance with FNS guidance.

(4) *Infant meal pattern*. Infant meals must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age.

(i) *Birth through 5 months*—(A) *Breakfast*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both.

(B) *Lunch or supper*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both.

(C) *Snack*. Four to 6 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both.

(ii) *6 through 11 months*. Breastmilk or iron-fortified formula, or portions of both, is required. Meals are reimbursable when institutions and facilities provide all the components in the meal pattern that the infant is developmentally ready to accept.

(A) *Breakfast, lunch, or supper*. Six to 8 fluid ounces of breastmilk or iron-fortified infant formula, or portions of both; and 0 to 4 tablespoons of iron-fortified dry infant cereal, meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0 to 2 ounces (weight) of cheese; or 0 to 4 ounces (volume) of cottage cheese; or 0 to 4 ounces of yogurt; and 0 to 2 tablespoons of vegetable, fruit, or portions of both. Fruit juices and vegetable juices must not be served.

(B) *Snack*. Two to 4 fluid ounces of breastmilk or iron-fortified infant formula; and 0 to ½ slice bread; or 0–2 crackers; or 0–4 tablespoons infant cereal or ready-to-eat cereals; and 0 to 2 tablespoons of vegetable or fruit, or portions of both. Fruit juices and vegetable juices must not be served. A serving of grains must be whole grain-rich, enriched meal, or enriched flour.

(5) *Infant meal pattern table*. The minimum amounts of food components to serve to infants, as described in paragraph (b)(4) of this section, are:

INFANT MEAL PATTERNS

Infants	Birth through 5 months	6 through 11 months
Breakfast, Lunch, or Supper	4-6 fluid ounces breastmilk ¹ or formula ²	6-8 fluid ounces breastmilk ¹ or formula ² ; and 0-4 tablespoons infant cereal ^{2,3} meat, fish, poultry, whole egg, cooked dry beans, or cooked dry peas; or 0-2 ounces of cheese; or 0-4 ounces (volume) of cottage cheese; or, 0-4 ounces or ½ cup of yogurt ⁴ ; or a combination of the above ⁵ ; and 0-2 tablespoons vegetable or fruit, or a combination of both ^{5,6}
Snack	4-6 fluid ounces breastmilk ¹ or formula ²	2-4 fluid ounces breastmilk ¹ or formula ² ; and 0-½ slice bread ^{3,7} ; or 0-2 cracker ^{3,7} ; or 0-4 tablespoons infant cereal ^{2,3,7} or ready-to-eat breakfast cereal ^{3,5,7,8} ; and 0-2 tablespoons vegetable or fruit, or a combination of both ^{5,6}

¹ Breastmilk or formula, or portions of both, must be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered at a later time if the infant will consume more.

² Infant formula and dry infant cereal must be iron-fortified.

³ Beginning October 1, 2019, ounce equivalents are used to determine the quantity of creditable grains.

⁴ Yogurt must contain no more than 23 grams of total sugars per 6 ounces.

⁵ A serving of this component is required when the infant is developmentally ready to accept it.

⁶ Fruit and vegetable juices must not be served.

⁷ A serving of grains must be whole-grain rich, enriched meal, or enriched flour.

⁸ Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

(c) Meal patterns for children age 1 through 18 and adult participants. Institutions and facilities must serve the food components and quantities specified in the following meal patterns for children and adult participants in order to qualify for reimbursement.

Food and Nutrition Service, USDA

§ 226.20

(1) *Breakfast*. Fluid milk, vegetables or fruit, or portions of both, and grains are required components of the breakfast meal. Meat and meat alternates may be used to meet the entire grains requirement a maximum of three times per week. The minimum amounts of food components to be served at breakfast are as follows:

BREAKFAST MEAL PATTERN FOR CHILDREN AND ADULTS

	Ages 1-2	Ages 3-5	Ages 6-12	Ages 13-18 ¹ (at-risk afterschool programs and emergency shelters)	Adult
Food Components and Food Items ²	Minimum Quantities				
Fluid milk ³	4 fl oz	6 fl oz	8 fl oz	8 fl oz	8 fl oz
Vegetables, fruits, or portions of both ⁴	¼ cup	½ cup	½ cup	½ cup	½ cup
Grains (oz eq) ^{5,6,7}					
Whole grain-rich or enriched bread	½ slice	½ slice	1 slice	1 slice	2 slices
Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	½ serving	½ serving	1 serving	1 serving	2 servings
Whole grain-rich, enriched or fortified cooked breakfast cereal ⁸ , cereal grain, and/or pasta	¼ cup	¼ cup	½ cup	½ cup	1 cup
Whole grain-rich, enriched or fortified ready-to-eat breakfast cereal (dry, cold) ^{8,9}					
Flakes or rounds	½ cup	½ cup	1 cup	1 cup	2 cups
Puffed cereal	¾ cup	¾ cup	1 ¼ cups	1 ¼ cups	2 ½ cups
Granola	⅞ cup	⅞ cup	¼ cup	¼ cup	½ cup

¹ Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

² Must serve all three components for a reimbursable meal. Offer versus serve is an option for only adult and at-risk afterschool participants.

³ Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk for children six years old and older and adults. For adult participants, 6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.

⁴ Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

⁵ At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

⁶ Meat and meat alternates may be used to meet the entire grains requirement a maximum of three times a week. One ounce of meat and meat alternates is equal to one ounce equivalent of grains.

⁷ Beginning October 1, 2019, ounce equivalents are used to determine the quantity of creditable grains.

⁸ Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

⁹ Beginning October 1, 2019, the minimum serving size specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereals is ¼ cup for children ages 1-2; 1/3 cup for children ages 3-5; ¾ cup for children ages 6-12 and ages 13-18; and 1 ½ cups for adults.

§ 226.20

7 CFR Ch. II (1-1-17 Edition)

(2) *Lunch and supper.* Fluid milk, meat and meat alternates, vegetables, fruits, and grains are required components in the lunch and supper meals. The minimum amounts of food components to be served at lunch and supper are as follows:

LUNCH AND SUPPER MEAL PATTERN FOR CHILDREN AND ADULTS

	Ages 1-2	Ages 3-5	Ages 6-12	Ages 13-18 ¹ (at-risk afterschool programs and emergency shelters)	Adult
Food Components and Food Items ²	Minimum Quantities				
Fluid milk ³	4 fl oz	6 fl oz	8 fl oz	8 fl oz	8 fl oz ⁴
Meat/meat alternates Edible portion as served:					
Lean meat, poultry, or fish	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces
Tofu, soy products, or alternate protein products ⁵	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces
Cheese	1 ounce	1½ ounces	2 ounces	2 ounces	2 ounces
Large egg	½	¾	1	1	1
Cooked dry beans or peas	¼ cup	⅓ cup	½ cup	½ cup	½ cup
Peanut butter or soy nut butter or other nut or seed butters	2 Tbsp	3 Tbsp	4 Tbsp	4 Tbsp	4 Tbsp
Yogurt, plain or flavored unsweetened or sweetened ⁶	4 ounces or ½ cup	6 ounces or ¾ cup	8 ounces or 1 cup	8 ounces or 1 cup	8 ounces or 1 cup
The following may be used to meet no more than 50 percent of the requirement: Peanuts, soy nuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternates (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry or fish)	½ ounce = 50%	¾ ounce = 50%	1 ounce = 50%	1 ounce = 50%	1 ounce = 50%
Vegetables ⁷	½ cup	¼ cup	½ cup	½ cup	½ cup
Fruits ^{7,8}	½ cup	¼ cup	¼ cup	¼ cup	½ cup
Grains (oz eq) ^{9,10}					
Whole grain-rich or enriched bread	½ slice	½ slice	1 slice	1 slice	2 slices
Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	½ serving	½ serving	1 serving	1 serving	2 servings
Whole grain-rich, enriched or fortified cooked breakfast cereal ¹¹ , cereal grain, and/or pasta	¼ cup	¼ cup	½ cup	½ cup	1 cup

¹ Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

² Must serve all five components for a reimbursable meal. Offer versus serve is an option for only adult and at-risk afterschool participants.

³ Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk for children six years old and older and adults. For adult participants,

Food and Nutrition Service, USDA

§ 226.20

6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.

⁴ A serving of fluid milk is optional for suppers served to adult participants.

⁵ Alternate protein products must meet the requirements in appendix A to part 226 of this chapter.

⁶ Yogurt must contain no more than 23 grams of total sugars per 6 ounces.

⁷ Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

⁸ A vegetable may be used to meet the entire fruit requirement. When two vegetables are served at lunch or supper, two different kinds of vegetables must be served.

⁹ At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards the grains requirement.

¹⁰ Beginning October 1, 2019, ounce equivalents are used to determine the quantity of the creditable grain.

¹¹ Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

(3) *Snack*. Serve two of the following five components: Fluid milk, meat and meat alternates, vegetables, fruits, and grains. Fruit juice, vegetable juice, and milk may comprise only one component of the snack. The minimum amounts of food components to be served at snacks are as follows:

SNACK MEAL PATTERN FOR CHILDREN AND ADULTS

	Ages 1-2	Ages 3-5	Ages 6-12	Ages 13-18 ¹ (at-risk afterschool programs and emergency shelters)	Adult
Food Components and Food Items ²	Minimum Quantities				
Fluid milk ³	4 fl oz	4 fl oz	8 fl oz	8 fl oz	8 fl oz
Meats/meat alternates Edible portion as served ⁴					
Lean meat, poultry, or fish	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce
Tofu, soy products, or alternate protein products ⁴	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce
Cheese	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce
Large egg	½	½	½	½	½
Cooked dry beans or peas	⅛ cup	⅛ cup	¼ cup	¼ cup	¼ cup
Peanut butter or soy nut butter or other nut or seed butters	1 Tbsp	1 Tbsp	2 Tbsp	2 Tbsp	2 Tbsp
Yogurt, plain or flavored unsweetened or sweetened ⁵	2 ounces or ¼ cup	2 ounces or ¼ cup	4 ounces or ½ cup	4 ounces or ½ cup	4 ounces or ½ cup
Peanuts, soy nuts, tree nuts, or seeds	½ ounce	½ ounce	1 ounce	1 ounce	1 ounce
Vegetables ⁶	½ cup	½ cup	¾ cup	¾ cup	½ cup
Fruits ⁶	½ cup	½ cup	¾ cup	¾ cup	½ cup
Grains (oz eq) ^{7,8}					
Whole grain-rich or enriched bread	½ slice	½ slice	1 slice	1 slice	1 slice
Whole grain-rich or enriched bread product, such as biscuit, roll, muffin	½ serving	½ serving	1 serving	1 serving	1 serving
Whole grain-rich, enriched or fortified cooked breakfast cereal ⁹ , cereal grain, and/or pasta	¼ cup	¼ cup	½ cup	½ cup	½ cup
Whole grain-rich, enriched or fortified ready-to-eat breakfast cereal (dry, cold) ^{9,10}					
Flakes or rounds	½ cup	½ cup	1 cup	1 cup	1 cup
Puffed cereal	¾ cup	¾ cup	1 ¼ cup	1 ¼ cups	1 ¼ cups
Granola	⅛ cup	⅛ cup	¼ cup	¼ cup	¼ cup

¹ Larger portion sizes than specified may need to be served to children 13 through 18 years old to meet their nutritional needs.

² Select two of the five components for a reimbursable snack. Only one of the two components may be a beverage.

³ Must be unflavored whole milk for children age one. Must be unflavored low-fat (1 percent) or unflavored fat-free (skim) milk for children two through five years old. Must be unflavored low-fat (1 percent), unflavored fat-free (skim), or flavored fat-free (skim) milk for children six years old and older and adults. For adult participants, 6 ounces (weight) or ¾ cup (volume) of yogurt may be used to meet the equivalent of 8 ounces of fluid milk once per day when yogurt is not served as a meat alternate in the same meal.

⁴ Alternate protein products must meet the requirements in appendix A to part 226 of this chapter.

⁵ Yogurt must contain no more than 23 grams of total sugars per 6 ounces.

⁶ Pasteurized full-strength juice may only be used to meet the vegetable or fruit requirement at one meal, including snack, per day.

⁷ At least one serving per day, across all eating occasions, must be whole grain-rich. Grain-based desserts do not count towards meeting the grains requirement.

⁸ Beginning October 1, 2019, ounce equivalents are used to determine the quantity of creditable grains.

⁹ Breakfast cereals must contain no more than 6 grams of sugar per dry ounce (no more than 21.2 grams sucrose and other sugars per 100 grams of dry cereal).

¹⁰ Beginning October 1, 2019, the minimum serving sizes specified in this section for ready-to-eat breakfast cereals must be served. Until October 1, 2019, the minimum serving size for any type of ready-to-eat breakfast cereals is ¼ cup for children ages 1-2; 1/3 cup for children ages 3-5; ¾ cup for children ages 6-12, children ages 13-18, and adults.

(d) *Food preparation.* Deep-fat fried foods that are prepared on-site cannot be part of the reimbursable meal. For this purpose, deep-fat frying means cooking by submerging food in hot oil or other fat. Foods that are pre-fried, flash-fried, or par-fried by a commercial manufacturer may be served, but must be reheated by a method other than frying.

(e) *Unavailability of fluid milk*—(1) *Temporary.* When emergency conditions prevent an institution or facility normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfast, lunches, or suppers without milk during the emergency period.

(2) *Continuing.* When an institution or facility is unable to obtain a supply of milk on a continuing basis, the State agency may approve service of meals without milk, provided an equivalent amount of canned, whole dry or fat-free dry milk is used in the preparation of the components of the meal set forth in paragraph (a) of this section.

(f) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, and the Virgin Islands, the following variations from the meal requirements are authorized: a serving of starchy vegetable, such as yams, plantains, or sweet potatoes, may be substituted for the grains requirement.

(g) *Exceptions and variations in reimbursable meals*—(1) *Exceptions for disability reasons.* Reasonable substitutions must be made on a case-by-case basis for foods and meals described in paragraphs (a), (b), and (c) of this sec-

tion for individual participants who are considered to have a disability under 7 CFR 15b.3 and whose disability restricts their diet.

(i) A written statement must support the need for the substitution. The statement must include recommended alternate foods, unless otherwise exempted by FNS, and must be signed by a licensed physician or licensed health care professional who is authorized by State law to write medical prescriptions.

(ii) A parent, guardian, adult participant, or a person on behalf of an adult participant may supply one or more components of the reimbursable meal as long as the institution or facility provides at least one required meal component.

(2) *Exceptions for non-disability reasons.* Substitutions may be made on a case-by-case basis for foods and meals described in paragraphs (a), (b), and (c) of this section for individual participants without disabilities who cannot consume the regular meal because of medical or special dietary needs.

(i) A written statement must support the need for the substitution. The statement must include recommended alternate foods, unless otherwise exempted by FNS. Except for substitutions of fluid milk, as set forth below, the statement must be signed by a recognized medical authority.

(ii) A parent, guardian, adult participant, or a person on behalf of an adult participant may supply one component of the reimbursable meal as long as the component meets the requirements described in paragraphs (a), (b), and (c) of

§ 226.20

7 CFR Ch. II (1-1-17 Edition)

this section and the institution or facility provides the remaining components.

(3) *Fluid milk substitutions for non-disability reasons.* Non-dairy fluid milk substitutions that provide the nutrients listed in the following table and are fortified in accordance with fortification guidelines issued by the Food and Drug Administration may be provided for non-disabled children and adults who cannot consume fluid milk due to medical or special dietary needs when requested in writing by the child's parent or guardian, or by, or on behalf of, an adult participant. An institution or facility need only offer the non-dairy beverage that it has identified as an allowable fluid milk substitute according to the following table.

Nutrient	Per cup (8 fl oz)
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

(h) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or continuing basis in any institution or facility where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(i) *Meals prepared in schools.* The State agency must allow institutions and facilities which serve meals to children 5 years old and older and are prepared in schools participating in the National School Lunch and School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those Programs (7 CFR parts 210 and 220, respectively) for the meal pattern requirements contained in this section.

(j) *Meal planning.* Institutions and facilities must plan for and order meals on the basis of current participant trends, with the objective of providing only one meal per participant at each meal service. Records of participation and of ordering or preparing meals must be maintained to demonstrate

positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals that are ordered may be served to participants and may be claimed for reimbursement, unless the State agency determines that the institution or facility has failed to plan and prepare or order meals with the objective of providing only one meal per participant at each meal service.

(k) *Time of meal service.* State agencies may require any institution or facility to allow a specific amount of time to elapse between meal services or require that meal services not exceed a specified duration.

(l) *Sanitation.* Institutions and facilities must ensure that in storing, preparing, and serving food proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions and facilities must ensure that adequate facilities are available to store food or hold meals.

(m) *Donated commodities.* Institutions and facilities must efficiently use in the Program any foods donated by the Department and accepted by the institution or facility.

(n) *Family style meal service.* Family style is a type of meal service which allows children and adults to serve themselves from common platters of food with the assistance of supervising adults. Institutions and facilities choosing to exercise this option must be in compliance with the following practices:

(1) A sufficient amount of prepared food must be placed on each table to provide the full required portions of each of the components, as outlined in paragraphs (c)(1) and (2) of this section, for all children or adults at the table and to accommodate supervising adults if they wish to eat with the children and adults.

(2) Children and adults must be allowed to serve the food components themselves, with the exception of fluids (such as milk). During the course of the meal, it is the responsibility of the supervising adults to actively encourage each child and adult to serve

Food and Nutrition Service, USDA

§ 226.21

themselves the full required portion of each food component of the meal pattern. Supervising adults who choose to serve the fluids directly to the children or adults must serve the required minimum quantity to each child or adult.

(3) Institutions and facilities which use family style meal service may not claim second meals for reimbursement.

(o) *Offer versus serve.* (1) Each adult day care center and at-risk afterschool program must offer its participants all of the required food servings as set forth in paragraphs (c)(1) and (c)(2) of this section. However, at the discretion of the adult day care center or at-risk afterschool program, participants may be permitted to decline:

(i) *For adults.* (A) *One of the four* food items required at breakfast (one serving of fluid milk; one serving of vegetable or fruit, or a combination of both; and two servings of grains, or meat or meat alternates);

(B) *Two of the five* food components required at lunch (fluid milk; vegetables; fruit; grain; and meat or meat alternate); and

(C) *One of the four* food components required at supper (vegetables; fruit; grain; and meat or meat alternate).

(ii) *For children.* *Two of the five* food components required at supper (fluid milk; vegetables; fruit; grain; and meat or meat alternate).

(2) In pricing programs, the price of the reimbursable meal must not be affected if a participant declines a food item.

(p) *Prohibition on using foods and beverages as punishments or rewards.* Meals served under this part must contribute to the development and socialization of children. Institutions and facilities must not use foods and beverages as punishments or rewards.

[81 FR 24377, Apr. 25, 2016, as amended at 81 FR 75677, Nov. 1, 2016]

§ 226.21 Food service management companies.

(a) Any institution may contract with a food service management company. An institution which contracts with a food service management company shall remain responsible for ensuring that the food service operation conforms to its agreement with the State agency. All procurements of

meals from food service management companies shall adhere to the procurement standards set forth in § 226.22. Public institutions shall follow applicable State or local laws governing bid procedures. In the absence of any applicable State or local laws, and in addition to the procurement provisions set forth in § 226.22, the State agency may mandate that each institution with Program meal contracts of an aggregate value in excess of \$10,000 formally advertise such contracts and comply with the following procedures intended to prevent fraud, waste, and Program abuse:

(1) All proposed contracts shall be publicly announced at least once 14 calendar days prior to the opening of bids. The announcement shall include the time and place of the bid opening;

(2) The institution shall notify the State agency at least 14 calendar days prior to the opening of the bids of the time and place of the bid opening;

(3) The invitation to bid shall not provide for loans or any other monetary benefit or terms or conditions to be made to institutions by food service management companies;

(4) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(5) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless special requirements are necessary to meet the needs of the participants to be served;

(6) The bid shall be publicly opened;

(7) All bids totaling \$50,000 or more shall be submitted to the State agency for approval before acceptance. All bids shall be submitted to the State agency for approval before accepting a bid which exceeds the lowest bid. State agencies shall respond to any request for approval within 10 working days of receipt;

(8) The institutions shall inform the State agency of the reason for selecting the food service management company chosen. State agencies may require institutions to submit copies of all bids submitted under this section.

(b) The institution and the food service management company shall enter into a standard contract as required by