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OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education

From Gary Yee, Ph.D., Interim Superintendent
Vernon Hal, Deputy Superintendent, Business & Operations
Jennifer Le Barre, Director of Nutrition Services *VSH*

Board Meeting Date

Subject Request for Approval of Permanent Single Agreement for Child Nutrition Programs with the California Department of Education

Action Requested Approval by the Board of Education of Permanent Single Agreement for Child Nutrition Programs with the California Department of Education.

Background Oakland Unified School District Nutrition Services is required to maintain agreement with the California Department of Education in order to participate in the National School Lunch, School Breakfast, After School Snack, and Child & Adult Care Food Programs. This Single Agreement represents the United States Department of Agriculture's requirement that state agencies to provide each School Food Authority with a single agreement vs. one for each meal program.

Discussion Oakland Unified School District provides meals to all TK-12 grades with a variety of meal programs through the National School Lunch, School Breakfast, and After School Snack Programs. Additionally, the Child & Adult Care Food Program provides breakfast, lunch, snack and supper to both Child Development Centers & After School Programs. In order to maintain these programs, this Permanent Single Agreement is required.

Recommendation Approval by the Board of Education of the Permanent Single Agreement for Child Nutrition Programs with the California Department of Education

Fiscal Impact None

Attachments Permanent Single Agreement

Permanent Single Agreement for Child Nutrition Programs

School/Sponsor Name OAKLAND USD	Vendor Number 612500
Address, City, State, Zip 900 HIGH ST., OAKLAND, CA 94601	CNIPS ID Number- 01048

This Permanent Single Agreement (Agreement) represents the United States Department of Agriculture's (USDA) requirement for state agencies to provide each school food authority (SFA) with a single Agreement when a state agency administers any combination of the Child Nutrition Programs (Programs). This Agreement *replaces* the program(s) Agreement(s) with the California Department of Education (CDE) for each program listed below.

This Agreement shall be effective commencing on the earliest date specified by the individual CDE program manager's signature on the Cover Page and remain in effect unless terminated as provided herein.

By signing this Agreement, the SFA agrees to comply with the requirements for any program in which it is approved to participate. Each time the CDE approves an SFA's application to participate in a Program, the SFA will receive an updated copy of the Agreement Cover Page identifying all Programs in which the CDE approves the SFA to participate.

The SFA must comply with all requirements included in documents submitted as part of each Program application, in addition to the requirements of this Agreement.

For questions regarding any of the Programs, please contact a Program specialist by phone at 800-952-5609.

Authority: Title 42, *United States Code (USC)* 1751-1762a, 1765-1766b, 1769-1769h, 1771-90, 3030a, 5179, 5180, as amended 5 *USC* 301, 7 *USC* 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a-1, 1859, 2014, 2025, 15 *USC* 713c, 22 *USC* 1922, Title 2, *Code of Federal Regulations (CFR)* 225, 7 *CFR* parts 15, 15a, 15b, 210, 215, 220, 225, 226, 240, 245, 250, 3015, 3016, 3019, and 3052.

Catalogue of Federal Domestic Assistance (CFDA) numbers 10.555, 10.553, 10.556, 10.558, 10.559, and 10.550. *California Education Code (EC)* Part 27, Chapter 9, Articles 7 through 12, and sections 48931, 49490-49570, and 5 *California Code of Regulations (CCR)* 15500 and 15501.

This is not an application to participate in a Child Nutrition Program.

Definitions:

Child Nutrition Programs: Federally funded nutrition programs administered by the USDA according to the National School Lunch Act of 1946 (P.L. 79-396), as amended, and the Child Nutrition Act of 1966 (P.L. 89-642), as amended. Specifically, for the purpose of this Agreement: the National School Lunch Program (NSLP), Afterschool Meal Supplements (snacks) Program (AMS), Seamless Summer Feeding Option (SSFO), School Breakfast Program (SBP), Special Milk Program (SMP), State Meal Program, Food Distribution Program (FDP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP), herein referred to as Program(s).

Federal Assistance: Any funding, property, or aid that is provided to a state agency, Sponsor, SFA, Institution, or Recipient Agency for the purpose of providing Program benefits or services to eligible participants.

Institution: A sponsoring organization, child care center, outside-school-hours care center, or adult day care center that enters into an Agreement with the state agency to assume final administrative and financial responsibility for Program operations.

Recipient Agency: Any eligible nonprofit organization that receives food under 7 *CFR* Part 250, Food Distribution Program.

School: An educational unit as defined in 7 *CFR* parts 210, 215, and 220.

School Food Authority (SFA): The legal governing body that is responsible for the administration of one or more schools and has the legal authority to enter into an Agreement with the state agency to operate CNPs.

Sponsor: A public, private nonprofit, or for-profit organization, that is approved to operate a CNP as defined in 7 *CFR* parts 210, 215, 220, 225, 226, and 250. The Sponsor, SFA, Recipient Agency, Institution, or organization who is party to this contract.

State Agency: The state educational agency approved by the USDA to administer CNPs within the state. For the purposes of this Agreement, the state agency is the CDE.

Hereinafter, the Institution, Recipient Agency, or SFA shall be referred to as Sponsor.

The CDE agrees, to the extent that funds are available as appropriated by Congress, to reimburse the Sponsor for the operation of the Program(s) designated below, in accordance with applicable regulations governing such Programs. The CDE agrees to make payments, where applicable, in accordance with 7 *CFR* Part 240 (Cash in Lieu of Donated Foods), and any amendments thereto; and/or to donate foods to the Sponsor in accordance with 7 *CFR* Part 250 (FDP). The CDE further agrees to disseminate a press release to notify the public of the availability of Programs and the eligibility criteria for free milk and free and reduced-price (F/RP) meals and snacks to all local news media, the employment office, and any major employers who are contemplating layoffs in the attendance area of these Programs.

The Sponsor agrees to accept federal funds and/or donated foods for the operation of Programs as agreed to herein in accordance with all applicable Program regulations and any amendments thereto, and to comply with all the provisions thereof, and with all California statutes, administrative rules, policy manuals, memorandums, guidance, and instructions and any instruction or procedures issued by the USDA or the CDE in connection therewith. The Sponsor further agrees to administer Programs funded under this Agreement in accordance with provisions of 7 *CFR* parts 3015 (Uniform Federal Assistance Regulation), and/or 3016 (Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments Regulations), as applicable.

This Agreement shall be effective commencing on the date specified by the individual CDE program manager's signature and remain in effect unless terminated as provided herein. The Sponsor shall notify the CDE whenever significant changes occur in their Program operations.

The CDE may terminate the Sponsor's participation in any Program covered in this Agreement in accordance with the grant close-out procedures found in 7 *CFR* Part 3015, Subpart N, or 7 *CFR* Part 3016, Subpart D, as applicable. If the CDE terminates the Sponsor's participation in any Program, the CDE's action will result in the termination of the Sponsor's participation in all Programs.

Either party hereto may, by giving at least 30 days written notice, terminate this Agreement. Upon termination or expiration of this Agreement, as provided herein, the CDE shall make no further disbursement of funds paid to the Sponsor in accordance with this Agreement, except to reimburse the eligible Sponsor in connection with breakfasts, lunches, suppers, snacks, or milk served on or prior to the termination or expiration date of this Agreement. The obligations of the CDE under the above-cited regulations shall continue until the requirements thereof have been fully performed.

No termination or expiration of this Agreement shall affect the obligation of the Sponsor to maintain and retain records as specified herein and to make such records available for audit or investigation. Such records shall be retained for a period of three years after the date of the first claim for reimbursement in the fiscal year to which they pertain; unless audit or review findings have not been resolved, in which case the records shall be retained beyond the three year period as long as required for resolution of the issues raised by the audit or review.

ASSURANCE OF CIVIL RIGHTS COMPLIANCE

The Sponsor assures that the Program(s) will be operated in compliance with all applicable civil rights laws and will implement all applicable nondiscrimination regulations. Unless otherwise made inapplicable by law, the Sponsor hereby agrees that it will comply with Title VI and VII of the Civil Rights Act of 1964 (42 *USC* 2000d-2000e-16), Title IX of the Education Amendments of 1972 (20 *USC* 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 *USC* 794), the Age Discrimination Act of 1975 (42 *USC* 6101 et seq.), the Americans with Disabilities Act of 1990 (P.L. 101-336), all provisions required by USDA Nondiscrimination Regulations (7 *CFR* parts 15, 15a, 15b), Department of Justice Enforcement Guidelines for Enforcement of Nondiscrimination in Federally Assisted Programs, and the USDA Food and Nutrition Service (FNS) directives and guidelines to the effect that no person shall be discriminated against on the basis of race, color, national origin, sex, age, or disability in any program or activity conducted or funded by the USDA. The Sponsor hereby assures that it will immediately take measures necessary to effectuate this Agreement.

This assurance is given in consideration of and for the purpose of obtaining any and all federal financial assistance, grants and loans of federal funds; reimbursable expenditures; grant or donation of federal property and interest in property; the detail of federal personnel; and the sale and lease of, and the permission to use, federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with federal financial assistance extended to the Sponsor by the USDA or CDE. This includes any federal Agreement, arrangement, or other contract that has as one of its purposes the provision of assistance such as food, cash assistance for the purchase of food, or any other financial assistance extended in reliance on the representations and Agreements made in this assurance.

By providing this assurance, the Sponsor agrees to compile data, maintain records, and submit reports as required to permit effective enforcement of the nondiscrimination laws, and permit authorized USDA or CDE personnel during normal working hours to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the USDA and/or CDE shall have the right to seek judicial enforcement of this assurance.

This assurance is binding on the Sponsor, its successors, transfers, and assignees as long as it receives assistance or retains possession of any assistance from the CDE. The persons whose signatures appear below are authorized to sign this assurance on the behalf of the Sponsor.

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

During the performance of this Agreement, insofar as it relates to Program administration expenses, the Sponsor agrees that:

- (1) It will not discriminate against any employee because of race, color, national origin, gender, age, or disability. The Sponsor will take affirmative action to assure that applicants are employed, and that employees are treated during employment, without regard to their race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Sponsor agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided by the CDE setting forth the provisions of this nondiscrimination clause.
- (2) The Sponsor will, in all solicitations or advertisements for employees placed by or on behalf of the Sponsor, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, gender, age, or disability.
- (3) The Sponsor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the CDE, advising the labor unions or workers' representative of the CDE's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Sponsor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Sponsor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the USDA, the Secretary of Labor, and/or CDE for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Sponsor's noncompliance with the nondiscrimination clauses of this Agreement, as it relates to CNP expenses, the Agreement may be canceled, terminated, or suspended in whole or part and the Sponsor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Sponsor will include the provisions of items (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Sponsor will take such action with respect to any subcontract or purchase order as the USDA or CDE may direct as a means of enforcing such provision, including sanctions for noncompliance; provided, however that in the event the Sponsor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the USDA or CDE, the Sponsor may request the United States or CDE to enter into such litigation to protect the interests of the United States.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM, AND SPECIAL MILK PROGRAM

This section applies only if an effective date for the NSLP, SBP, or SMP has been entered on the Cover Page, and it has been signed by the School Nutrition Programs Manager.

The Sponsor and participating schools under its jurisdiction shall comply with all provisions of 7 *CFR* parts 210, 215, 220, and 245, **and all requirements developed pursuant to and imposed by these regulations which incorporate the Sponsor Application for Participation, Free and Reduced-Price Policy Statement, and Claiming Alternative Policy Addenda by reference**, as well as applicable provisions of 7 *CFR* parts 3015, 3016, 3019, and all applicable requirements of the California *EC* relating to CNPs, USDA guidance, and CDE Management Bulletins, hereby incorporated by reference.

The Sponsor further agrees to the following specific provisions, as applicable:

- (1) Maintain a nonprofit school food service and/or a nonprofit milk service.
- (2) Limit its net cash resources to an amount that does not exceed three months average expenditures for its nonprofit school food service or such other amount as may be approved in accordance with 7 *CFR* sections 210.19a, 220.7 (e)(1)(I), and 220.13(I).
- (3) Maintain a financial management system as prescribed in 7 *CFR* sections 210.14(c), 220.13(I), and 215.7(d)(6).
- (4) Comply with the requirements of the USDA regulations regarding financial management (7 *CFR* sections 3015, 3016, and/or 3019).
- (5) Serve meals and snacks that meet the minimum requirements prescribed in 7 *CFR* sections 210.10, 210.10a, 220.8, and/or 220.8a, whichever is applicable.
- (6) For pricing programs, to price meals and snacks as a unit.
- (7) Serve Program meals, milk, and snacks free or at a reduced-price to all children who are determined by the Sponsor to be eligible for such meals under 7 *CFR* Part 245.

- (8) Claim reimbursement at the assigned rates only for reimbursable meals and snacks served to eligible children. The Sponsor authority official signing the claim shall be responsible for reviewing and analyzing meal and milk counts to ensure accuracy, as specified in 7 *CFR* sections 210.8, 220.11, and 215.11.
- (9) Count the number of free, reduced-price, and paid reimbursable Program meals at the point of service, as approved by the CDE.
- (10) Submit Claims for Reimbursement in accordance with 7 *CFR* sections 210.8, 220.11, 215.9, and 215.11.
- (11) Comply with USDA requirements regarding nondiscrimination (7 *CFR* parts 15, 15a, 15b).
- (12) Make no discrimination against any child because of his or her eligibility for F/RP meals, milk, or supplements (snacks) in accordance with the Free and Reduced-price Policy Statement attached hereto.
- (13) Accept and use donated foods, in as large quantities as may be efficiently utilized, as offered under provisions of 7 *CFR* Part 250.
- (14) Maintain, in the storage, preparation, service of food and milk, proper sanitation and health standards in conformance with all applicable state and local laws and regulations.
- (15) Maintain necessary facilities for storing, preparing, and serving food and/or milk.
- (16) Obtain for each school participating in the program a minimum of two food safety inspections during the school year, conducted by the state or local governmental agency responsible for food safety inspections, and publicly post inspection results, and develop and maintain for each school a food safety program complying with hazard analysis critical control points.
- (17) Upon request, make all accounts and records pertaining to Programs available to the CDE and USDA FNS, for audit or review, at a reasonable time and place in accordance with 7 *CFR* sections 210.9(b)(17), 220.7(e)(13), and/or 215.8(d)(7). In accordance with 7 *CFR* Section 210.19(a)(4), the CDE shall promptly investigate complaints received or irregularities noted in connection with the operation of the program, and shall take appropriate action to correct any irregularities. At the discretion of the CDE, the investigations shall be conducted on an announced or unannounced basis.
- (18) Maintain files of currently approved and denied F/RP applications and direct certification documentation. If the applications and direct certification documentation are maintained at the Sponsor level, they shall be readily retrievable by school or site.
- (19) Retain the individual applications for free milk and/or free and reduced-price lunches and supplements (snacks) submitted by families for a period of 3 years after the end of the fiscal year to which they pertain except that, if audit findings have not been resolved, the records shall be retained beyond the 3 year period and as long as required for the resolution of the issues raised by the audit.
- (20) Observe the limitations on the use of Program revenues set forth in 7 *CFR* sections 210.14a, 220.13(l), and 215.8 (d)(1) and the limitations on any competitive school food service as set forth in 7 *CFR* Section 210.11b.
- (21) Establish a local wellness policy that includes goals for nutrition education and physical activity; nutrition guidelines for all foods available on campus; guidelines for school meals not less restrictive than 7 *CFR* sections 210.10 and 220.8, and an implementation plan.
- (22) Participate in annual training.
- (23) Limit fried foods according to California *EC* sections 49430.5 and 49430.7.
- (24) Offer all needy children at least one nutritionally adequate meal during each school day per *EC* Part 49550.

**REQUIREMENTS FOR SPONSOR PARTICIPATION IN
NSLP AFTERSCHOOL MEAL SUPPLEMENTS (SNACKS) PROGRAM (AMS)**

This section applies only if an effective date for the NSLP AMS has been entered on the Cover Page,
and it has been signed by the School Nutrition Programs Manager.

In conjunction with all provisions of the NSLP, the Sponsor agrees to:

- (1) Claim reimbursement only for meals served in afterschool care programs that meet all of the following criteria:
 - The program shall be operated by a school that is participating in the NSLP.
 - The purpose of the program shall be to provide care for children in an afterschool setting.
 - The program shall include education or enrichment activities in an organized, structured, and supervised environment.

Extracurricular activities such as school choir, debate team, or the drama society may participate **only if** their basic purpose is to provide afterschool care, and the program is open to all children. Under no circumstances will organized athletic programs engaged in interscholastic sports be considered as an afterschool care program that is eligible to receive reimbursement under this provision. The afterschool care program must be "open to all." Specifically, programs that exclude children based on race, color, national origin, sex, age, or disability are not eligible to participate in the Snack Program.

- (2) Claim reimbursement only for snacks served to children who are not more than eighteen years of age. Individuals, regardless of age, who are determined to be mentally or physically disabled are eligible to participate. If a child's nineteenth birthday occurs during the school year, reimbursement may be claimed for snacks served to that child during the remainder of the school year.
- (3) Claim reimbursement for no more than one meal supplement per child per day. Sites located in areas served by a school in which at least 50 percent of the enrolled children are for F/RP meals may claim reimbursement at the free rate for snacks served to all children eligible to participate in the snack program regardless of each child's eligibility for F/RP meals. Sites in which less than 50

percent of the enrolled children are certified eligible for F/RP meals must claim reimbursement based on each child's eligibility for F/RP meals.

- (4) Serve meal supplements that meet the minimum requirements prescribed in 7 *CFR* sections 210.10 or 210.10(a), whichever is applicable.
- (5) Price the meal supplement as a unit.
- (6) Serve meal supplements free or at a reduced-price to all children who are determined by the Sponsor to be eligible for F/RP school meals under 7 *CFR* Part 245.
- (7) If charging for meals, the charge for a reduced-price meal supplement shall not exceed 15 cents. [7 *CFR* Section 210.9(c)(4)]
- (8) Claim reimbursement at the assigned rates only for meal supplements served in accordance with this agreement.
- (9) Review each afterschool care program two times a year. The first review shall be made during the first four weeks that the school is in operation each school year. An exception will be made for an afterschool care program operating year round. Year-round programs shall be reviewed during the first four weeks of its initial year of operation, once more during its first year of operation, and twice each school year thereafter.
- (10) Comply with all requirements of this part, except that claims for reimbursement need not be based on "point-of-service" meal supplement counts [as required by 7 *CFR* Section 210.9(b)(9)].
- (11) If all meals are claimed free, maintain documentation that the site is located in an area served by a school in which at least 50 percent of the enrolled students are certified eligible for F/RP meals. Maintain total meal counts for these sites.
- (12) For all other sites, maintain documentation of F/RP eligibility for all children for whom F/RP snacks are claimed. Maintain meal counts by eligibility category for these sites.
- (13) Maintain documentation of each child's attendance on a daily basis.
- (14) Maintain documentation of compliance with meal pattern requirements.
- (15) Maintain appropriate Health and Safety Standards and licensing requirements.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN SEAMLESS SUMMER FEEDING OPTION PROGRAM

This section applies only if an effective date for the SSFO has been entered on the Cover Page, and it has been signed by the School Nutrition Programs Manager.

The SSFO combines features of the NSLP, the SBP, and the SFSP. The purpose of the SSFO is to feed children in low-income areas during the summer months or during extended breaks of a year-round school schedule. The SSFO reduces paperwork and the administrative burden that is normally associated with operating all three programs. To accomplish this, the above Sponsor requests an exemption of significant portions of the SFSP federal regulations of 7 *CFR* Part 225. In lieu of the exempt SFSP regulations, the Sponsor will follow applicable regulations in the NSLP and the SBP (7 *CFR* parts 210 and 220, respectively).

REQUIRED SFSP PROVISIONS

SFSP regulatory provisions of 7 *CFR*, Part 225 that remain in force require that Sponsors:

- (1) 7 *CFR* Section 225.6(d)(1): Serve meals in needy areas that are not served by another site.
- (2) 7 *CFR* Section 225.6(e)(4): Agree to serve meals at no cost (except camps).
- (3) 7 *CFR* Section 225.6(e)(7): Claim reimbursement only for approved meals served without charge to children at approved sites during approved meal service periods—this section prohibits permanent changes to the serving time of any meal unless approved by CDE.
- (4) 7 *CFR* Section 225.14(c)(1): Demonstrate financial and administrative capability to operate the program, and accept final financial and administrative responsibility for the total program operations at all sites.
- (5) 7 *CFR* Section 225.14(c)(2): Have not been seriously deficient in operating the program.
- (6) 7 *CFR* Section 225.14(c)(3): Conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (**except camps**).
- (7) 7 *CFR* Section 225.14(d)(2): Open the meal service to children in the community as well as the summer school students, for meals served to children enrolled in summer school,
- (8) 7 *CFR* Section 225.16(b): Limit the number of meals that may be served, as specified.

EXEMPTED SFSP PROVISIONS

To operate the SSFO, the Sponsor requests an exemption from the following SFSP regulatory provisions of 7 *CFR*, Part 225:

- (1) 7 *CFR* Section 225.6: CDE application approval, paragraphs (b), (c), (d), (e), (f), and (h) **except** paragraphs (d)(1), (e)(4), and (e)(7)
- (2) 7 *CFR* Section 225.7: Program monitoring and assistance

- (3) 7 *CFR* Section 225.8: Records and reports
- (4) 7 *CFR* Section 225.9: Program assistance to Sponsor
- (5) 7 *CFR* Section 225.10: Audits and management evaluations
- (6) 7 *CFR* Section 225.11: Corrective action procedures
- (7) 7 *CFR* Section 225.12: Claims against Sponsor
- (8) 7 *CFR* Section 225.13: Appeal procedure
- (9) 7 *CFR* Section 225.14: Requirements for Sponsor participation, entire section **except** paragraphs (c)(1), (c)(2), (c)(3), and (d)(2)
- (10) 7 *CFR* Section 225.15: Management responsibilities of Sponsor
- (11) 7 *CFR* Section 225.16: Meal service requirement, entire section except paragraph (b)
- (12) 7 *CFR* Section 225.17: Procurement standards
- (13) 7 *CFR* Section 225.18: Miscellaneous administrative provisions

NSLP AND SBP REGULATIONS

The CDE recognizes that NSLP and SBP regulations may conflict with SFSP requirements. The CDE will provide technical assistance to sponsors to adapt requirements as necessary.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN STATE MEAL PROGRAM

This section applies only if an effective date for the State Meal Program has been entered on the Cover Page, and it has been signed by the School Nutrition Programs Manager.

The Sponsor and participating schools under its jurisdiction shall comply with all provisions of the California *EC* 49550, 49553, 49557, 49557.1, 49557.3, 49558, 49559, 49560, 49561, and 49562.

The Sponsor shall:

- (1) Supervise the operation of the State Meal Program at all approved sites.
- (2) Maintain a nonprofit school food service program and use all food program revenues **only** for expenses needed to operate, or to improve, the food service program. Expenditures of food program revenues shall be made in accordance with the financial management system established by the CDE.
- (3) Serve nutritionally adequate meals to children during a period designated by the Sponsor as the meal period. Sufficient quantities of food shall be planned and produced so that each meal meets the requirements according to the USDA's NSLP meal pattern requirements or the SBP meal pattern requirements, which are incorporated by reference.
- (4) Plan for and prepare meals on the basis of participation trends, with the objective of providing one nutritionally adequate meal per day to each child determined to be eligible for a F/RP meal. Production and participation records shall be maintained to demonstrate positive action towards meeting this objective.
- (5) Price each meal as a unit, except in nonpricing State Meal Programs where there is no separate charge for the meal.
- (6) Make nutritionally adequate meals available to all enrolled children who are determined to be eligible for a F/RP meal. When more than one type of nutritionally adequate meal is offered, or when a variety of foods and milk are offered for choice within the required meal pattern, all children shall be offered the same selection. For those children that the Sponsor determines are eligible for a F/RP meal, nutritionally adequate meals shall be made available to them free of charge or at a reduced-price. Such determinations shall be made in accordance with the F/RP eligibility guidelines issued by the USDA and distributed by the CDE, and the Sponsor's approved Free and Reduced-Price Meal Policy Statement which are hereby incorporated by reference. Use the income eligibility scale distributed by the CDE without alteration or retyping.
- (7) Not discriminate against any child because of his or her inability to pay the full price of the nutritionally adequate meal.
- (8) Maintain a copy of the Sponsor's approved Free and Reduced-Price Meal Policy Statement, as well as any other policies and procedures that pertain to the provision of F/RP meals at each approved site.
- (9) Store, prepare, and serve food in accordance with proper sanitation and health standards as required by applicable state and local laws and regulations.
- (10) Maintain the necessary facilities for storing, preparing, and serving food. The facilities for handling, storing, and distributing food shall be such as to properly safeguard against theft, spoilage, and other losses.
- (11) Submit forms and reports to the CDE, in accordance with established procedures, to demonstrate compliance with State Meal Program requirements. These reports include, but are not limited to:
 - Claims for reimbursement
 - Policy statements for Free and Reduced-Price Meals
- (12) Claim reimbursement at the prevailing rate only for nutritionally adequate meals that meet the specified meal pattern requirements **and** are served to children in accordance with this agreement. Reimbursement shall only be claimed on the basis of one nutritionally adequate meal per child per day and shall not be claimed for any meals which are served as "second" meals. Reimbursement shall not be claimed for nutritionally adequate meals served free or at a reduced-price which exceed the number of children approved for such meals.

- (13) Maintain full and accurate records of the State Meal Program and retain these records for a period of three years after the applicable fiscal year. If necessary, these records shall be retained for more than three years until all issues raised by an audit are resolved. These records shall be kept separate from the records of any other food service (except those records that pertain to the Special Milk Program) which may be operated by the Sponsor. The records that shall be maintained include, but are not limited to the following:
- On a site by site basis, the number of nutritionally adequate meals served to children each day, by category (free, reduced-price, and paid).
 - Meal production records and inventory records documenting the amounts and types of food used.
 - The individual applications for free and reduced-price meals (approved and denied) submitted by families. The applications shall be readily retrievable by site.
 - Income received from payments made by children, state reimbursement, and other sources.
 - Expenses incurred for food, labor, supplies, equipment, utilities, and other services related to the State Meal Program, supported by invoices, receipts, and other evidence of expenditures.
 - Contributions from other sources for food, labor, equipment, utilities, and meals for needy children, etc., pertaining to the State Meal Program.
- (14) Upon request, make all State Meal Program accounts and records available, at a reasonable time and place, to the CDE and other agencies as deemed appropriate, for audit or review purposes.
- (15) Comply with the limitations specified by the CDE concerning the sale of foods that compete with the nutritionally adequate meals sold under the State Meal Program (5 CCR 15500 and 15501, and EC 48931).
- (16) Ensure that the State Meal Program is operated in accordance with the terms of this agreement if the Sponsor contracts with other entities for services utilized in the operation of the State Meal Program.
- (17) Comply with California EC Section 45103.5, which prohibits public schools and schools operated by the county superintendent of schools from contracting for management of the food service program by a food service management company.
- (18) Comply with all requirements pertaining to the operation of the State Meal Program as specified in the California EC and the California *Administrative Code*, which are hereby incorporated by reference.
- (19) Comply with all applicable state laws and regulations, which are hereby incorporated by reference.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN FOOD DISTRIBUTION PROGRAM

This section applies only if an effective date for the FDP has been entered on the Cover Page, and it has been signed by the Food Distribution Program Authorized Representative.

The Sponsor shall comply with all provisions of 7 CFR Part 250, as well as applicable provisions of the California EC, USDA guidance, and CDE Management Bulletins hereby incorporated by reference.

The Sponsor further agrees to the following specific provisions, as applicable:

- (1) When receiving donated foods under this Program Agreement, to accept responsibility for any improper distribution or use of donated foods or for any loss of, or damage to, donated foods caused by the Recipient Agency's fault or negligence.
- (2) To preserve a right to assert claims against other persons to whom donated foods are delivered for care, handling, or distribution.
- (3) To take action to obtain restitution in connection with claims for improper distribution, use, or loss of, or damage to, donated foods.
- (4) To provide, on a timely basis, by amendment to this Agreement, any changed information, including, but not limited to, any changes resulting from amendments to federal regulatory requirements or policy and any changes in site locations, and number of meals or needy persons to be served.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN THE CHILD AND ADULT CARE FOOD PROGRAM

This section applies only if an effective date for the CACFP has been entered on the Cover Page, and it has been signed by the Child and Adult Care Food Program Manager.

The Sponsor, as defined in 7 CFR Section 226.2, shall comply with all provisions of 7 CFR Part 226, **and all requirements developed pursuant to and imposed by these regulations which incorporate the Sponsor's Child Nutrition Information and Payment System (CNIPS) Application Packet, Management Plan, CACFP Meal Pattern by reference**, as well as applicable provisions of 7 CFR parts 3016, 3019, 3052; 15, 15a, 15b; Office of Management and Budget (OMB) Circulars A-87, A-122, A-133; and the California EC; USDA guidance, and CDE Management Bulletins, hereby incorporated by reference. The Sponsor further agrees to accept final administrative and financial responsibility for management of a proper, efficient, and effective food service; the Sponsor may not contract out for management of the Program. The Sponsor agrees to accept announced or unannounced visits during normal hours of operations by the CDE or the USDA. Anyone making such reviews must show photo identification that demonstrates that they are employees of one of these

entities.

The Sponsor further agrees to the following specific provisions, as applicable:

- (1) Child or adult care centers must have federal, state, or local licensing or approval to provide day care services to participants. Child or adult care centers, which are complying with applicable procedures to renew licensing or approval, may participate in the Program during the renewal process, unless the CDE has information that indicates that renewal will be denied. At-risk afterschool care centers shall comply with licensing requirements set forth in 7 *CFR* Section 226.17a(d).
- (2) Except for for-profit centers, child and adult care centers shall be public, or have tax exempt status under the *Internal Revenue Code* of 1986.
- (3) Each child or adult care center participating in the Program must serve one or more of the following meal types—breakfast; lunch; supper; and/or snack. Reimbursement must not be claimed for more than two meals and one snack or one meal and two snacks provided daily to each participant. At-risk afterschool care centers shall comply with limits on daily reimbursement set forth in 7 *CFR* Section 226.17a (k).
- (4) Each child or adult care center participating in the Program shall claim only the meal types specified in its approved application in accordance with the meal pattern requirements specified in 7 *CFR* Section 226.20. Menus and any other nutritional records required by the CDE shall be maintained to document compliance with such requirements.
- (5) For-profit child care centers may not claim reimbursement for meals served to children in any month in which less than 25 percent of the children in care (enrolled or licensed capacity, whichever is less) were eligible for F/RP meals or were Title XX beneficiaries. However, children who only receive at-risk afterschool snacks and/or at-risk afterschool meals must not be included in this percentage.
- (6) For-profit adult care centers may not claim reimbursement for meals served to participants in any month in which less than 25 percent of the enrolled participants were Title XIX or Title XX beneficiaries.
- (7) A child care center with preschool children may also be approved to serve a breakfast, snack, and supper to school-age children participating in an outside-school-hours care program meeting the criteria of 7 *CFR* Section 226.19(b) that is distinct from its day care program for preschool-age children. The CDE may authorize the service of lunch to such participating children who attend a school that does not offer a lunch program, provided that the limit of two meals and one snack, or one meal and two snacks, per child per day is not exceeded.
- (8) A child care center with preschool children may also be approved to serve a snack or meal to school-age children participating in an at-risk afterschool care program meeting the requirements of 7 *CFR* Section 226.17a that is distinct from its day care program for preschool children, provided that the limit of two meals, and one snack, or one meal and two snacks, per child per day is not exceeded.
- (9) A child or adult care center may utilize existing school food service facilities or obtain meals from a school food service facility, and the pertinent requirements of 7 *CFR* Section 226.17(b) must be addressed in a written agreement between the child or adult care center and school. The center shall maintain responsibility for all applicable Program requirements set forth in 7 *CFR* sections 226.17, 226.17a, 226.19, and 226.19a.
- (10) Each child or adult care center, except at-risk afterschool care centers, shall collect and maintain documentation of the enrollment of each participant, including information used to determine eligibility for free and reduced-price meals in accordance with 7 *CFR* Section 226.23(e)(1). In addition, Head Start participants need only have a Head Start statement of income eligibility or a statement of Head Start enrollment from an authorized Head Start representative, to be eligible for free meal benefits under the CACFP. For children enrolled in a child care center, documentation of enrollment must be updated annually, signed by a parent or legal guardian, and include information on each child's normal days and hours of care and the meals normally received while in care.
- (11) Each child or adult 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. At-risk after-school care centers must maintain records as required by 7 *CFR* Section 226.17a(o).
- (12) Each child or adult care center must require key staff, as defined by the CDE, to attend Program training prior to the center's participation in the Program, and at least annually thereafter, on content areas established by the CDE.
- (13) Sponsored child or adult care centers must promptly inform the sponsoring organization about any change in its licensing or approval status.
- (14) Unaffiliated sponsored child or adult care centers have the right to receive in a timely manner reimbursement for meals served to eligible participants for which the sponsoring organization has received payment from the CDE. However, if, with the child or adult care center's consent, the sponsoring organization will incur costs for the provision of program foodstuffs or meals on behalf of the center, and subtract such costs from Program payments to the center, the particulars of this arrangement shall be specified in the Agreement. The sponsoring organization must not withhold Program payments to any child or adult care center for any other reason, except that the sponsoring organization may withhold from the child or adult care center any amounts that the sponsoring organization has reason to believe are invalid, due to the child or adult care center having submitted a false or erroneous meal count.
- (15) The CDE and an independent child or adult care center have the right to terminate the Agreement for cause or, subject to 7 *CFR* Section 226.6(c), for convenience. Sponsoring organizations and unaffiliated sponsored centers have the right to terminate the Agreement for cause or convenience.
- (16) Child and adult care centers must comply with the CDE's time limit for submission of meal records.

- (17) If so instructed by its sponsoring organization, sponsored child and adult care centers must distribute a copy of the sponsoring organization's notice to parents or households.

REQUIREMENTS FOR SPONSOR PARTICIPATION IN THE SUMMER FOOD SERVICE PROGRAM

This section applies only if an effective date for the SFSP has been entered on the Cover Page, and it has been signed by the Summer Food Service Program Manager.

The Sponsor shall comply with all provisions of 7 *CFR* Part 225, and all requirements developed pursuant to and imposed by these regulations which incorporate the Sponsor Application for Participation by reference, as well as applicable provisions of OMB Circulars A-21, A-87, A-110, A-102, A-122, A-133, and the California *EC*; USDA guidance, and CDE Management Bulletins, hereby incorporated by reference.

The Sponsor further agrees to the following specific provisions, as applicable:

- (1) To retain final financial and administrative responsibility for the Program.
- (2) To operate a nonprofit food service.
- (3) To serve meals that meet the requirements and provisions set forth in 7 *CFR* Section 225.16 during times designated as meal service periods by the Sponsor.
- (4) To serve the same meals to all children.
- (5) To serve meals without cost to all children, except that camps, as defined in 7 *CFR* Section 225.2, may charge for meals served to children who are not served meals under the Program.
- (6) To Issue a free meal policy statement in accordance with 7 *CFR* Section 225.6.
- (7) To meet the training requirement for its administrative and site personnel as required under 7 *CFR* Section 225.15(d)(1).
- (8) To claim reimbursement only for the type(s) of meals specified in this Agreement or in each annual update hereafter, and served without charge to children at approved sites during the approved meal service period, except that camps, as defined in 7 *CFR* Section 225.2, shall claim reimbursement only for the type(s) of meals specified in the Agreement or in each annual update hereafter and served without charge to children who meet the Program's income standards. This Agreement and each annual update hereafter shall specify the approved levels of meal service for the Sponsor's sites if such levels are required under 7 *CFR* Section 225.6(d)(2). No permanent changes may be made in the serving time of any meal unless the changes are approved by the CDE.
- (9) To submit claims for reimbursement in as specified in 7 *CFR* Section 226.9.
- (10) In the storage, preparation, and service of food, to maintain proper sanitation and health standards in conformance with all applicable state and local laws and regulations.
- (11) To accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered under 7 *CFR* Part 250 (FDP).
- (12) To have access to facilities necessary for storing, preparing, and serving food.
- (13) To maintain a financial management system as prescribed by the CDE.
- (14) Upon request, to make all Program accounts and records available to state, federal, and/or other authorized officials for audit or administrative review, at a reasonable time and place.
- (15) To maintain all Program records for a period of three years after the end of the fiscal year to which they pertain, unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved.
- (16) To maintain children on site while meals are consumed.

CERTIFICATION REGARDING LOBBYING – CHILD NUTRITION PROGRAMS

This section is applicable to grants, subgrants, cooperative Agreements, and contracts exceeding \$100,000 in federal funds. Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by 31 *USC* Section 1352. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each.

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of a federal contract, the making of a federal grant, the making of a federal loan, the

entering into of a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or any employee of a member of Congress in connection with this federal grant or cooperative Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The language of this certification will be included in the award documents for all covered sub awards exceeding \$100,000 in federal funds at all appropriate tiers and which all subrecipients shall certify and disclose accordingly.

CERTIFICATION REGARDING STATE AND FEDERAL DRUG-FREE WORKPLACE REQUIREMENTS

Grantees Other Than Individuals

As required by Section 8355 of the California *Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 2 *CFR*, Part 182, for grantees, as defined at 2 *CFR* 182, Subpart B:

- A. The applicant certifies that it will provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
 - (b) Establishing an on-going, drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace
 - (2) The grantee's policy of maintaining a drug-free workplace
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs, and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - (c) Requiring that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement.
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
 - (e) Notifying the agency in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee. Notice shall include the identification number(s) of each affected grant.
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address, city, county, state, zip code):

900 High St., Oakland, Alameda, CA 94601
920 Campbell, Oakland, Alameda, CA 94607
1023 MacArthur Blvd., Oakland, Alameda, CA 94610

Check X if there are workplaces on file that are not identified here.

Grantees Who Are Individuals

As required by Section 8355 of the California *Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 2 *CFR* Part 182, for grantees, as defined at 2 *CFR* Part 182, Subpart C:

- A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction to every grant officer or designee, in writing, within 10 calendar days of the conviction. Notice shall include the identification number(s) of each affected grant.

CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 2 *CFR* Part 180, for prospective participants in primary covered transactions, as defined at 2 *CFR* Part 180.970:

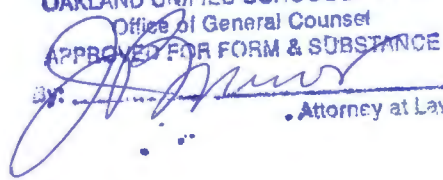
- A. The applicant [Sponsor] certifies that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

David Kakishiba
President, Board of Education

This Agreement constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. The Sponsor, by the signature of its authorized representative, hereby acknowledges that he/she has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Signature of Authorized Official or Designated Representative Gary Yee, Ed.D. Secretary, Board of Education		Date
Printed name of Authorized Official or Designated Representative Gary Yee		Title Interim Superintendent
Telephone number 510-434-7777	Fax number 510-434-7772	E-mail Gary.Yee@ousd.k12.ca.us
Contact person if different from above Jennifer LeBarre		E-mail and phone number Jennifer.lebarre@ousd.k12.ca.us 510-434-3334

OAKLAND UNIFIED SCHOOL DISTRICT
 Office of General Counsel
 APPROVED FOR FORM & SUBSTANCE
 By: 
 Attorney at Law

File ID Number: 13-2012
 Introduction Date: 9/11/13
 Enactment Number: 13-1968
 Enactment Date: 9/11/13
 By: 