



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK T. BENTON • Assistant Secretary for Public Health
Division of Public Health

November 26, 2019

Memorandum

**NC CACFP 19-17
CACFP 14-2019**

To: Institutions Participating in the Child and Adult Care Food Program

From: Courtney Jones, Special Nutrition Programs Manager *CJ*

Subject: Farm Bill Implementation Memo: Donated Traditional Foods and Civil Liability¹

On December 20, 2018, Congress passed the Agriculture Improvement Act of 2018 (Public Law 115-334, 2018 Farm Bill). The purpose of this memorandum is to notify Child Nutrition Program operators of the 2018 Farm Bill's expansion of the provision stating that certain groups are not liable in civil cases regarding the donation and service of traditional foods. This provision only applies to food service programs at public and nonprofit facilities that primarily serve Indians, including those operated by Indian Tribes and Tribal organizations.

Previously, only the United States and Indian Tribes or Tribal organizations were protected from liability, and this protection was limited to the donation and serving of traditional foods. This provision, included in Section 4033 of the Agricultural Act of 2014 (Public Law 113-79), was effective in February 2014. Section 4203 of the 2018 Farm Bill amended the prior authority and eliminated civil liability for States, counties or county equivalents, local educational agencies, and entities or persons authorized to facilitate the donation, storage, preparation, or serving of traditional foods by the operator of a food service program. These organizations and persons are not liable in any civil action for any damage, injury, or death caused to any person by the storage, preparation, donation, or serving of traditional foods through food service programs, including the Child Nutrition Programs.

The Food and Nutrition Service (FNS) provided guidance on the 2014 Farm Bill provision in SP 42-2015, CACFP 19-2015, SFSP 21-2015: *Service of Traditional Foods in Public Facilities*, issued July 31, 2015. The 2018 Farm Bill expanded the elimination of civil liability to additional organizations and persons (as described above) and added the "storage" and "preparation" of donated traditional foods to the list of activities covered by the provision. The 2015 memorandum is not otherwise impacted by this change.

¹Pursuant to the Congressional Review Act (5 U.S.C. §801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. § 804(2).

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LOCATION: 5601 Six Forks Road, Building 2, Raleigh, NC 27609
MAILING ADDRESS: 1914 Mail Service Center, Raleigh, NC 27699-1914
www.ncdhhs.gov • TEL: 919-707-5800 • FAX: 919-870-4818

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Institutions with questions should contact their Regional Consultant or the Nutrition Training and Policy Team at cacfptraining@dhhs.nc.gov.