

**Alabama State Department of Education
Child Nutrition Programs
School Nutrition Programs**

Donating Surplus Food to Eligible Nonprofit Organizations

Child Nutrition Program (CNP) directors are responsible for planning, preparing, and ordering food with the goal of providing one meal per participant at each meal service in order to limit unnecessary costs and food waste. However, schools may occasionally have leftover prepared or unprepared food or beverages. School food authorities (SFAs) may donate such surplus food to eligible nonprofit organizations if allowed by the State and local health department regulations and the SFA's written procedures.

Donations to Nonprofit Charitable Organizations Outside the SFA

1. Examples of eligible nonprofit charitable organizations include community food banks, homeless shelters, and child and adult care centers.
2. Preference should be given to organizations that operate other federal programs.
3. The nonprofit charitable organizations must be tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986.

Donations to Nonprofit Organizations Within the SFA

1. A school system may allow its schools to donate surplus, nonexpired food to a charitable organization for the purpose of redistributing the food to students in need who participate in the National School Lunch Program. The food may be consumed at school or off school grounds.
 - a. The donation must be through an official of the charitable organization who is directly affiliated with the school.
 - b. The food must be provided at no cost to students.
 - c. Students who receive free or reduced-price lunches should not be overtly identified.
2. The donated food may not be distributed one hour before or one hour after a meal service.
3. The distribution of the donated foods may not conflict with Smart Snacks or fundraising activities.
4. The local health department must approve donating food within the school or to an external nonprofit charitable organization.
5. Donated food stored at the school must be kept separate from CNP food.

Food Safety Requirements

1. The SFA must obtain the approval of the local health department to donate food.
2. The SFA's Hazard Analysis Critical Control Point (HAACP) plan must have standard operating procedures for donating food within the school or to eligible nonprofit charitable organizations, including at a minimum:
 - a. Recordkeeping procedures.

- b. Food allergy considerations.
- c. Time or temperature-controls, if applicable.

Limits on Civil and Criminal Liability

Federal and state laws provide civil and criminal liability protections for donations made in good faith.

Program Integrity

1. CNP directors should monitor surplus food donations to guard against potential overproduction for the purpose of donation.
2. If a school has a surplus of food on a frequent basis, menu planning and production practices should be adjusted.
3. Documentation for donations must identify the date of donation, the recipient, the specific item(s), the amount, and food safety procedures taken at the time of transfer.

Policy Approved: 8-6-2026

Links to Resources:

Bill Emerson Good Samaritan Food Donation Act

[42 USC 1791: Bill Emerson Good Samaritan Food Donation Act](#)

SP 11-2012, CACFP 05-2012, SFSP 07-2012

February 3, 2012

Guidance on the Food Donation Program in Child Nutrition Programs (February 3, 2012)

Alabama Food Surplus Donation Act (Act 2019-526)

[Alabama Food Surplus Donation Act \(Act 2019-526\)](#)

Alabama Administrative Code §6-5-336 Volunteer Services Act

[Alabama Administrative Code §6-5-336 Volunteer Services Act](#)

ALSDE Superintendent Memo: FY19-3057

Food Surplus Donations (Act 2019-526) (September 4, 2019)