**Guidance for Donating Food to Eligible Local Food Banks or Charitable Organizations**

For Schools Participating in the National School Lunch, School Breakfast, and/or Afterschool Snack Programs

On November 18, 2011, the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55) amended the [Richard B. Russell National School Lunch Act (NSLA)](https://fns-prod.azureedge.net/sites/default/files/NSLA.pdf) by adding paragraph (l), the Food Donation Program at the end of Section 9. The amendment provides clear statutory authority for food recovery and donation policy by schools and institutions participating in the Child Nutrition Programs (National School Lunch Program, School Breakfast Program, and Afterschool Snack Program). U.S. Department of Agriculture (USDA) Policy Memorandum, [SP 11-2012, Guidance on the Food Donation Program in Child Nutrition](https://www.fns.usda.gov/cacfp-05-2012-guidance-food-donation-program-child-nutrition-programs), updates and consolidates guidance pertaining to donations of leftover food when the quantity prepared exceeds the quantity needed for meal service. The memo states that:

* Child Nutrition Program policy aims first to limit food waste and unnecessary costs. If a school has leftover food on a frequent basis, menu planning and production practices should be adjusted to reduce leftovers. All alternatives permitted by program regulations and state and local health and sanitation codes should be exhausted before discarding food. Options may include using leftover in subsequent meal services, offering “sharing tables,” or transferring food to other sites.
* Because of unforeseen circumstances, occasionally there will be leftover food. Where it is not feasible to reuse leftovers, excess food may be donated to a nonprofit organization, such as a community food bank, homeless shelter, or other nonprofit charitable organization.

The amendment defines the terms “eligible local food banks or charitable organizations” to mean any food bank or charitable organization which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)]. It also extends protections against civil and criminal liability for persons or organizations when making food donations to the extent provided under the [Bill Emerson Good Samaritan Food Donation Act, found in section 22 of the Child Nutrition Act of 1966](https://legcounsel.house.gov/Comps/Child%20Nutrition%20Act%20Of%201966.pdf).

The USDA guidance permits schools participating in the federal Child Nutrition Programs to donate foods and beverages. Schools are covered under the Good Samaritan Food Donation Act when donating food; however, donations are only acceptable when certain provisions as specified by USDA Policy Memorandum, SP 11-2012, Guidance on the Food Donation Program in Child Nutritionare met. Schools must develop a plan to demonstrate specific provisions have been made to comply with USDA regulations and to meet state and local health codes.

# **Checklist for Donating Food**

* School Food Authorities (SFAs) are making conscientious efforts to be good stewards of the federal and state funding and USDA Foods received for the school meals programs. Donating food is only one measure that may be taken by SFAs to minimize waste. Other measures to minimize waste include:
	+ Observing meal and snack services and making necessary changes to improve food acceptability so that students consume meals and snacks such as:
		1. Program marketing
		2. Increasing food choices
		3. Changing food presentation
		4. Allowing sufficient time for students to consume meals or snacks
		5. Implementing recess before lunch
		6. Changing menus based on student input
		7. Scheduling milk breaks and classroom snacks so students are hungry at meal time
	+ Effectively implementing Offer versus Serve (OVS) to encourage students only to take what they intend to eat at breakfast and lunch by:
		1. Providing ongoing training and supervision of school nutrition professionals and others who monitor reimbursable meals at the end of the serving line to ensure students receive appropriate guidance about what they must select
		2. Informing students that they may decline up to two required components at lunch and one required food item at breakfast
		3. Providing age appropriate signage and/or effective displays of menu items to assist students with selecting the correct number of components and/or items
	+ For additional activities to reduce food waste, please reference the Department of Public Instruction (DPI) School Nutrition Team (SNT) October 11, 2016 memorandum, [“Reducing Food Waste in the National School Lunch and School Breakfast Programs,”](https://dpi.wi.gov/sites/default/files/imce/school-nutrition/pdf/snt-mail-101116.pdf) found on the DPI SNT Food Safety webpage.
* Legal entity (school board for public schools and administrator for private schools) has stated in writing, such as in a policy, that:
1. Efforts will be made to ensure there is no negative impact on the non-profit food service account as the result of food donations, and
2. Will allow donations to eligible local food banks and charitable organizations.
* Donations will be offered only to eligible local food banks and charitable organizations. The amendment defines the terms “eligible local food banks or charitable organizations” to mean any food bank or charitable organization which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)].
* Written information will be provided to inquiring school staff and food banks/charitable organizations that contact schools about donations to explain that:
	+ The school food service operation cannot be considered a regular source for donated food and cannot intentionally overproduce menu items for donation. The intent of the Child Nutrition Programs is to provide nutritious, well balanced meals to students and minimize costs to encourage participation by all students. Intentionally overproducing menu items will increase food costs and subsequently increase meal prices for households.
	+ Students will be encouraged to take and consume all planned menu items to receive nutrients and calories needed for growth and good health. OVS allows students to decline items at breakfast and components at lunch, which means schools should plan production to minimize leftovers and over production.
	+ Individuals and groups concerned about needs in the community are encouraged to find approaches to addressing hunger that do not rely on the school meals programs.
* Any equipment or supplies needed for storage and/or transport of donated foods will not be charged to the SFA’s non-profit food service account. The non-profit food service account will not cover costs for transporting donations to the food banks or charitable organizations.
* The person in charge of school food service will be responsible for developing a written plan with the designated contact person(s) from an eligible local food bank(s) or charitable organization(s). The plan must describe storage and/or transport of donated foods, as well as procedures that will be followed to maximize food quality and ensure food is wholesome and safe to consume.
* The person in charge of school food service will work with the sanitarian and/or local regulatory authority that conducts food safety inspections to ensure donation procedures are compliant with Wisconsin Food Code. Any recommendations made by the sanitarian and/or local regulatory authority will be implemented. Special attention will be given to time/temperature control safety (TCS) foods. TCS foods include milk and dairy products; eggs; meat, fish, and poultry; cooked plant foods (e.g., baked potatoes, rice, vegetables, etc.); sprouts; and cut melon, cut tomatoes, and cut leafy greens. Refer to the [TCS Food Wisconsin Food Code Fact Sheet](https://datcp.wi.gov/Documents/PHFHoldingFactSheet.pdf) from the Department of Agriculture, Trade, and Consumer Protection (DATCP).
* A site-specific standard operating procedure (SOP) for donating food will be developed and kept at each serving location with the food safety plan based on Hazardous Analysis Critical Control Points (HACCP) principles. Refer to the attached SOP template, which must be adapted by the SFA to fit each serving location.
* If the SFA implements a Sharing or No Thank You Table, wholesome leftovers on the table at the end of meal service may be donated in accordance with the provisions described above and a site-specific SOP for Sharing or No Thank You Tables. Considerations and an SOP template are available on the SNT [Food Safety webpage](https://dpi.wi.gov/school-nutrition/food-safety#waste).

Food safety decisions surrounding food donations and food rescue are at the discretion of the sanitarian and/or local regulatory authority, subject to the [Wisconsin Food Code](https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/75_.pdf) as well as local regulations and ordinances. Additional decisions are at the discretion of the local education agency and may require consultation of legal counsel.

# **Donating Food to Eligible Local Food Banks or Charitable Organizations**

# **Standard Operating Procedure (SOP)**

**Purpose:** To ensure that leftover food for donation is handled in a manner that ensures safety throughout preparation, service, recovery of served items from students (if applicable), storage, and transport to donation site while also minimizing the risk of foodborne illness.

Note: The Bill Emerson Good Samaritan Food Donation Act of 1996 helps promote food recovery by limiting donor liability to situations of gross negligence or intentional misconduct.

**Procedures:**

* Donations may include prepared, unserved foods or served food items (wholesome leftovers) recovered from a Sharing or No Thank You Tables.
* Separate storage areas will be designated for food items that will be donated. Recovered or otherwise leftover items intended for donation will not be co-mingled with food that will be used for school meals or snacks.
* A written agreement with an eligible local food bank or charitable organization will be developed and retained to establish arrangements for storage and/or transport of donated foods. The agreement will also contain guidelines for what food items are accepted by the receiving organization. Updates will be made as needed.
* All food handlers must ensure:
* Food amounts are prepared as directed on production and/or forecasting records.
* All personal hygiene SOPs in preparation and service of foods are followed.
* All foods designated for donation are cooled (if hot entrée or side dish) according to the “Cooling Time/Temperature Control for Safety Foods” SOP.
* All donated foods are labeled with date and time of preparation; name of organization making the donation; name of product; and the presence of any of the eight major food allergens.
* Cooled foods donated on day of preparation are kept at 41 °F or below.
* Cold foods designated for immediate donation are kept at 41 °F or below.
* Food is frozen if donations are periodic or if donated foods will not be consumed within four days.
* Food designated for donation is kept in food safe plastic bags or clean and sanitized food safe containers.
* The person in charge of school food service should:
* Review local health policies and work with the local regulatory authority regarding food donations to eligible local food banks or charitable organizations.
* Review production and forecasting records to determine which menu items frequently generate leftovers and adjust purchasing and production accordingly.
* Collaborate and facilitate partnership with leaders of local food banks or charitable organizations to determine donation procedures and acceptable donations.
* Monitor preparation of menu items, service procedures, and process of storing and transporting donations.
	+ If applicable, ensure that procedures for Sharing or No Thank You Tables are followed if items recovered from the tables will be donated to an eligible local food bank or charitable organization. Refer to “Sharing or No Thank You Tables” SOP.
	+ Ensure food handlers are properly trained.

Use the chart below to indicate how donations will be handled with each of the SFA’s partner organizations (fill in with site-specific information):

| **Name of Organization** | **Acceptable Donations** | **Contact Person**  | **Delivery/Pick-Up Procedures**  |
| --- | --- | --- | --- |
| *Ex. Hope Food Bank* | *Ex. Unopened, pre-packaged shelf stable items only* | *Ex. John Smith* *608-942-1589* | *Ex. Food service director delivers donations weekly to food bank on Fridays at 2pm* |
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**Monitoring and Recordkeeping:**

* Retain copies of written agreements with eligible local food banks or charitable organizations to establish arrangement for storage and/or transport of donations.
* Record donations on a designated log or as part of daily production records to track waste.
* Update SOP accordingly when procedures change or when new donation partnerships are established.

**Corrective Action:**

* Discard any food designated for donation that has not been safely handled at any point throughout preparation, service, recovery of served items from students (if applicable), storage, or transport.
* Retrain any food handlers observed not following procedures outlined in this SOP.
* Report and take appropriate disciplinary action against any individual observed removing items from the donation area.
* Additional/Alternative Corrective Action (describe):

\**Adapted from SCSOP28a Food Donations SOP by Iowa State University Extension and Outreach*