



Georgia Department of Early Care and Learning

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**Brian P. Kemp**  
Governor

**Amy M. Jacobs**  
Commissioner

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## MEMORANDUM

To: Institutions and Sponsors Participating in the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP)

From: Sonja R. Adams, Nutrition Director – Provider Services *(Original Signed)*

Date: August 22, 2019

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

Legal Authority: The Agriculture Improvement Act of 2018 (P.L. 115-334, 2018 Farm Bill); and USDA Policy Memorandum, SP 31-2019, CACFP 14-2019, SFSP 14-2019, July 17, 2019

**Cross Reference** USDA Policy Memorandum, SP 42-2015, CACFP 19-2015, SFSP 21-2015 (July 31, 2015)

**Definition(s)**

“**Traditional Food**” – Means food that has traditionally been prepared and consumed by an Indian tribe. The term includes:<sup>1</sup>

- (i) Wild game meat;
- (ii) Fish;
- (iii) Seafood;
- (iv) Marine mammals;
- (v) Plants; and
- (vi) Berries.

The purpose of this memorandum is notify participating Child and Adult Care Food Program (CACFP) institutions and Summer Food Service Program (SFSP) sponsors of the 2018 Farm Bill’s expansion of the of the provision which states 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.<sup>2</sup>

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<sup>1</sup> P.L. 113-79 (as amended through P.L. 115-334, enacted December 20, 2018.)

<sup>2</sup> P.L. 115-334, 2018 Farm Bill, December 20, 2018.

Previously, only the United States and Indian Tribes or Tribal organizations were protected from liability, and the protection was limited to the donation and serving of traditional foods. This provision, included in Section 4033 of the Agricultural Act of 2014 was effective in February 2014.<sup>3</sup>

Section 4203 of the 2018 Farm Bill amends the prior authority and eliminates 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 Nutritional Programs (CNPs).

Additionally, USDA's 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 Food in Public Facilities*, issued July 31, 2015. The 2018 Farm Bill expands the elimination of civil liability to additional organizations and persons (as described above) and adds the storage and preparation of donated traditional foods to the list of activities covered by the provision. Accordingly, the 2015 FNS memorandum is not otherwise impacted by this change.

For questions concerning this memorandum, please contact the Policy Administrator at (404) 651-8193.

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<sup>3</sup> P.L. 113-79.